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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1931

No. 454

CLAIBORNE-ANNAPOLIS FERRY COMPANY, APPELLANT,

vs.

THE UNITED STATES OF AMERICA, CHESAPEAKE BEACH RAILWAY COMPANY, AND INTERSTATE COMMERCE COMMISSION

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

FILED OCTOBER 12, 1931

(36,268)

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[fol. 4]

IN SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING AN EQUITY COURT

Equity. No. 52254

CLAIBORNE-ANNAPOLIS FERRY COMPANY, a Corporation, Plaintiff,

vs.

CHESAPEAKE BEACH RAILWAY COMPANY, a Corporation, and Frank McManamy, Balthasar H. Meyer, Clyde B. Aitcheson, Joseph B. Eastman, Ernest I. Lewis, Ezra Brainard, Jr., Claude B. Porter, Patrick J. Farrell, Hugh M. Tate, William A. Lee, C. D. Mahaffie, Individually and as Members of the Interstate Commerce Commission, Defendants

BILL OF COMPLAINT FOR INJUNCTION—Filed December 24, 1930

The plaintiff respectfully shows to the Court as follows:

1. That it is a corporation organized under the laws of the State of Maryland and brings this suit in its own right.

2. The defendant, Chesapeake Beach Railway Company, is a corporation organized under the laws of the State of Maryland, having its principal office and place of business in the District of Columbia and is the petitioner before the Interstate Commerce Commission in the proceedings hereinafter set forth, and is sued in its own right.

3. The defendants, Frank McManamy, Balthasar H. Meyer, Clyde B. Aitcheson, Joseph B. Eastman, Ernest I. [fol. 5] Lewis, Ezra Brainard, Jr., Claude B. Porter, Patrick J. Farrell, Hugh M. Tate, William A. Lee and C. D. Mahaffie, are citizens of the United States and comprise all the members of the Interstate Commerce Commission and are sued individually and as members of the said Interstate Commerce Commission.

4. That this suit is brought pursuant to and under the provisions of Chapter 2, Section 41, Paragraph 28, and Section 43 of the Judicial Code of the United States, which confer jurisdiction on this court of these proceedings as follows:

"Setting Aside Order of Interstate Commerce Commission.—Twenty-eight. Of cases brought to enjoin, set aside, annul, or suspend in whole or in part any order of the Interstate Commerce Commission. (June 18, 1910, c. 309, § 1, 36 Stat. 539; Mar. 3, 1911, c. 231, § 207, 36 Stat. 1148; Oct. 22, 1913, c. 32, 38 Stat. 219.)

"43. Venue of Suits Relating to Orders of Interstate Commerce Commission.—The venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. In case such transportation relates to a through shipment the term 'destination" shall be construed as meaning final destination of such shipment." (Oct. 22, 1913, c. 32, 38 Stat. 219.)

5. That the plaintiff is, and for a long period of time has been engaged in the business of maintaining, operating and conducting a ferry service wholly within the State of Maryland between the City of Annapolis, in Anne Arundel County, on the western shore of Maryland, and the town [fol. 6] of Claiborne, in Talbot County, and Matapeake Terminal, Queen Anne's County, on the eastern shore of said State, operating ferry boats between said points daily and carrying therein passengers and freight for hire. That the plaintiff operates said ferry business by virtue of a franchise granted it by the State of Maryland and has

expended large sums of money for ferry boats, wharves, ticket offices, freight offices and other equipment and appurtenances necessary for maintaining an adequate transportation service for freight and passengers across the waters of Chesapeake Bay between the points aforesaid. For a period of many years the business of plaintiff was unprofitable, but during the past six years, by reason of the expenditure of large sums of money to increase the efficiency of its service, it has been able, for the first time, to show an operating profit.

6. In the month of September, 1891, the Washington and Chesapeake Beach Railway Company was chartered by the State of Maryland to construct and operate a line of railroad from a point in the District of Columbia in a southeasterly direction, to certain points on the Chesapeake Bay. The charter of the said Washington and Chesapeake Beach Railway Company authorized it to "run and employ steamboats or other vessels to connect said railroad or railroads with other points by water communication." This was and is the only authority vested in said Washington and Chesapeake Beach Railway Company to operate a ferry service. On, to wit, the 7th day of March, 1896, the defendant, Chesapeake Beach Railway Company, acquired title to the property, rights, and privileges theretofore belonging to the said Washington and Chesapeake Beach Railway Company. Since the incorporation of said defendant, its activity has consisted solely in maintaining [fol. 7] and operating a steam railroad carrying passengers and freight for hire from a point just within the District of Columbia near the Maryland line to the town of Chesapeake Beach, Maryland, a distance of about twenty-nine (29) miles. Said town of Chesapeake Beach, Maryland, is in a southeasterly direction from the District of Columbia and is a summer resort and amusement park.

7. That on, to wit, the 26th day of December, 1929, the said defendant, Chesapeake Beach Railway Company, filed an application before the Interstate Commerce Commission for a certificate of public convenience and necessity for the extension of its line by establishing and operating a ferry, for the transportation of passengers and property between Chesapeake Beach in Calvert County, Maryland, across Chesapeake Bay, to a point on Trippe's

Bay in Dorchester County, Maryland, said application being known among the records of the Interstate Commerce Commission as Finance Docket No. 8013. Said application was filed pursuant to paragraphs 18 to 21, inclusive, of Section 1 of the Interstate Commerce Act, as amended. Paragraph 18 of said Act provides:

"No carrier by railroad subject to this chapter, shall undertake the extension of its line of railroad, or the construction of a new line of railroad or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this chapter over or by means of such additional or extended line of railroad unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad, subject to this chapter, shall abandon it or any operation of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment."

[fol. 8] The said Interstate Commerce Act, as amended, defines the term "railroad" to include "vessels used by or operated in connection with any railroad * * *."

Upon the filing of said application of the said defendant railway, as aforesaid, hearings were had, pursuant thereto, before the Interstate Commerce Commission, in which hearings this plaintiff intervened, after leave being first had and obtained. In said proceedings and in the record thereof, it appeared and does now appear that the present and/or future public convenience and necessity do not and will not require the extension of the railway line of the defendant railway by the operation of a ferry to be used by or in connection with said railway but, on the contrary, said proceedings before the said Interstate Commerce Commission and the order of said Commission show that the only public convenience and necessity, if any, to be served by the establishment and/or operation of a ferry between the points contemplated by the defendant will be in furnishing a general ferry service, entirely within the

State of Maryland, for the transportation of automobiles and trucks and passengers and freight in said automobiles and trucks, and that the operation of such ferry for such transportation will have no connection whatsoever with or use by the railway of the defendant, Chesapeake Beach Railway Company or any other railway.

It further fails to appear in said proceedings that the defendant, Chesapeake Beach Railway Company, has or will have any actual use whatsoever for the said ferry in connection with its railway.

8. On, to wit, the 8th day of August, 1930, the defendants, members of the Interstate Commerce Commission, passed an order providing that the present and future public con-
[fol. 9] venience and necessity required the establishment by the Chesapeake Beach Railway Company of a ferry service across Chesapeake Bay in Calvert and Dorchester Counties, Maryland, the said order being the certificate of public convenience and necessity hereinbefore referred to. That said order, in effect, provides for the construction, operation and maintenance of a general ferry wholly within the State of Maryland and from one point on the Chesapeake Bay to another.

9. That the foregoing considered, the said order of the Interstate Commerce Commission is null, void and of no effect in that the said Interstate Commerce Commission had and has no jurisdiction to provide for or authorize the construction, operation and/or maintenance of the ferry herein referred to for the following reasons:

(a) That the proceedings before the Interstate Commerce Commission show that the defendant railway has no actual use for said ferry in connection with its railway and that unless said ferry is for use by said railway or in connection with said railway, the said Interstate Commerce Commission has no power or jurisdiction to authorize its establishment and/or operation.

(b) That, even if any actual use of said ferry were contemplated by the defendant railway, in connection with its railway line, nevertheless, the proceedings before the Interstate Commerce Commission show conclusively that there is no present or future public necessity and/or convenience requiring the establishment and/or operation of

said ferry in connection with the defendant railway line but that, on the contrary, the only public convenience and necessity, if any, requiring the establishment and/or operation of said ferry between the points mentioned is for the [fol. 10] operation of a general ferry entirely within the State of Maryland and independent of and in no manner connected with defendant's railway line and that, under such circumstances, the Interstate Commerce Commission is without power or jurisdiction to authorize the establishment and/or operation of such ferry, and

(c) That the said order of the Interstate Commerce Commission pretends to authorize the defendant railway company to engage in an activity beyond the scope of its charter powers.

10. That the defendant, Chesapeake Beach Railway Company, under the pretended authority of the aforesaid order of the Interstate Commerce Commission, has proceeded with, or is about to proceed with the construction and operation of said ferry business, independent of its said railroad as aforesaid, and that unless restrained by this Court, will so proceed with the construction and operation of the ferry as aforesaid.

11. That unless this Honorable Court will set aside and annul said order of the Interstate Commerce Commission and restrain the defendant railway company from the construction and operation of the ferry as aforesaid, this plaintiff will suffer permanent and irreparable damage and injury in that the operation of the proposed ferry of the defendant at a point fifteen or twenty miles below the terminals and line of traffic of the plaintiff's ferry, and in competition therewith, will deprive the plaintiff of its customers, patronage and business, causing it financial disaster and the loss of a large amount of capital invested in its enterprise. And in fact the operation and maintenance of the proposed ferry by the defendant in competition with that of the plaintiff will prove disastrous to both, inasmuch as there is not, and will not be, sufficient passenger [fol. 11] and freight traffic to create a profit for both, but to the contrary, will cause an operating loss to both.

Premises considered, petitioner respectfully prays:

1. That the writ of subpoena issue commanding the defendants, and each of them, to appear and answer the exigencies of this Bill of Complaint.

2. That a preliminary injunction issue restraining the defendant, the Cheasapeake Beach Railway Company, from proceeding with the construction, maintenance and operation of a ferry business as in the Bill of Complaint alleged, pursuant to the said order of the Interstate Commerce Commission of August 1, 1930.

3. That a final and permanent injunction issue restraining the defendant, the Chesapeake Beach Railway Company, from constructing, maintaining and operating a ferry business as in the Bill of Complaint alleged, pursuant to the said order of the Interstate Commerce Commission of August 1, 1930.

4. That it be adjudged, ordered and decreed that the said order of the Interstate Commerce Commission of August 1, 1930, be set aside and annulled and held for naught.

5. For such other and further relief as to the Court may seem just and proper.

Claiborne-Annapolis Ferry Company, by John M. Dennis, Vice-President. Philip B. Perlman, Jesse I. Miller, Peyser, Edelin & Peyser, 1518 K St., Attorneys for Plaintiff.

[fol. 12] *Duly sworn to by John M. Dennis. Jurat omitted in printing.*

[fol. 13] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF DEFENDANT CHESAPEAKE BEACH RAILWAY COMPANY—Filed February 2, 1931

The Chesapeake Beach Railway Company, a corporation organized under the laws of the State of Maryland, hereinafter called the Railway, defendant in the above entitled cause, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of

exception to the many errors and insufficiencies and inaccuracies in the complainant's said bill of complaint contained, for answer thereto or unto so much and such parts thereof as this defendant is advised that it is material to make answer unto, says:

1, 2, 3. Answering paragraph 1, 2 and 3 of the bill of complaint the defendant Railway admits that the allegations therein contained are true. The Railway alleges that [fol. 14] there is a non-joinder of necessary parties defendant in that the United States is not joined as a defendant in an action to set aside and annul the order of the Interstate Commerce Commission, as required by the statute in such cases made and provided. Section 211 of the Judicial Code of the United States.

4. Answering paragraph 4 of the bill, the Railway denies that Chapter 2, Section 41, Paragraph 28, and Section 434 of the Judicial Code of the United States confer jurisdiction on the Supreme Court of the District of Columbia to entertain these proceedings, since those statutory provisions confer jurisdiction for the review of orders of the Interstate Commerce Commission exclusively upon the District Courts of the United States, and this court is not one of such courts.

5. Answering paragraph 5 of the bill, the Railway admits the truth of the allegations therein contained, except that it has no information or knowledge that the plaintiff, Claiborne-Annapolis Ferry Company possesses a franchise granted it by the State of Maryland, or that it carries freight for hire. The Railway, however, avers that the facts recited in this paragraph are immaterial in this proceeding.

6. Answering paragraph 6 of the bill of complaint the Railway admits the truth of the facts therein set forth, except that it alleges that the charter of the Washington & Chesapeake Railway Company, to which the defendant Railway has succeeded, authorizes the company to locate and operate a continuous line of railway from the District of Columbia to Chesapeake Bay "with the privilege of constructing such docks, piers, bridges and retaining walls along the bay shore as may be necessary", and provides further that it might also, "purchase, hold, own, sell, lease

or otherwise dispose of such lands and premises at the terminal at Chesapeake Bay as may be essential for the establishment at the said terminal of a permanent seaside [fol. 15] resort not exceeding in the aggregate 3,000 acres", and provides further that the president and directors of the company were, "invested with all the rights and powers necessary to the construction, working, use and repair of its said railroad, with such branches at any point of said railroad not exceeding twenty miles in length, as the said president and directors may determine; * * * make or cause to be made, lateral railways in any direction from the said railroad, * * * any may also own and employ steamboats or other vessels to connect the said railroad or railroads with other points by water communication," and except further that the defendant Railway alleges that it possesses further authority for the operation of a ferry service by virtue of the order of the Interstate Commerce Commission of August 1, 1930 in Chesapeake Beach Ry. Co. Ferry, 166 I. C. C. 293, granting it the certificate complained of in plaintiff's bill for -junction, and except further that the defendant Railway alleges that it is an interstate carrier by railroad with a line extending from Chesapeake Junction, D. C., 2.04 miles to the District-Maryland line, thence to Upper Marlsboro, Owings and other Maryland towns to the town of Chesapeake Beach, Maryland.

7. Answering paragraph 7, the Railway admits the truth of the allegations respecting the filing of its application before the Interstate Commerce Commission in Finance Docket No. 8013 under section 1 (18) to (20), and respecting the intervention of the plaintiff in such proceeding before the said Commission. But the Railway denies the remaining allegations in said paragraph.

8. Answering paragraph 8, the Railway admits the facts but avers that it is called upon neither to affirm nor deny [fol. 16] the conclusion, therein expressed.

9. Answering paragraph 9, the Railway denies the allegations therein contained and alleges that on December 26, 1929, it filed an application under section 1 (18- to (20) of the Interstate Commerce Act for a certificate that the present and future public convenience and necessity require the extension of its existing line of railroad by establishing and operating a ferry across Chesapeake Bay

between Chesapeake Beach and a point on Trippe's Bay near Hudson in Calvert and Dorchester Counties, Maryland; that the proceeding was designated as Finance Docket No. 8013, Chesapeake Beach Ry. Co. Ferry; that in accordance with the provisions of section 1 (19) of the Interstate Commerce Act, notice of the application was given to, and a copy thereof filed with, the Governor of the State of Maryland, with the right to be heard in respect of the matter, and in answer to the notice so given the Public Service Commission of Maryland advised the Interstate Commerce Commission it did not desire to make any representations in the proceeding; that the plaintiff herein was permitted to intervene in such proceeding and filed a petition of invervention opposing the granting of the application upon the sole ground that the public convenience and necessity did not require the establishment of the proposed ferry and that the operation thereof by the Railway would interfere with and hamper the efforts of the plaintiff to give adequate service on its route; that by the notice so given by the Public Service Commission of Maryland to the Interstate Commerce Commission and by the petition of intervention filed by plaintiff the issues in said proceeding were thus limited to those raised by said petition of intervention, to wit; whether the public convenience and necessity required the establishment of the proposed ferry and whether the operation thereof by the Railway would interfere with and hamper the plaintiff in [fol. 17] its efforts to give adequate service on its route; that upon the issues thus raised the Commission set the matter down for hearing and accorded the parties to said proceeding the full hearings provided under said Act; that at said hearings a large volume of testimony and other evidence bearing upon the application was submitted to the Commission for consideration, including testimony and evidence submitted on behalf of the intervener, who is plaintiff in this suit; that at said hearings, and subsequently on briefs, the questions relating to said application were fully argued and submitted to the Commission for determination; and that the Commission determined said matters and made and entered and served upon all of the parties to said proceeding a report and order dated August 1, 1930, which report and order is attached hereto and made a part of this answer, wherein the Commission found that the

present and future public convenience and necessity require the establishment of ferry service by the defendant Railway across Chesapeake Bay in Calvert and Dorchester Counties, Maryland, as set forth in the application.

The Railway further alleges that said findings and conclusions were and are fully supported and justified by the evidence submitted to the Commission at said proceeding as aforesaid.

The Railway further alleges that in making said report and order of August 1, 1930 the Commission considered and weighed carefully, in the light of its own knowledge and experience, each fact and circumstance and condition called to its attention on behalf of the parties to said proceeding, including all matters called to its attention by the intervener, who is plaintiff in this suit.

The Railway further alleges that said order of August 1, 1930 was not made or entered by the Commission con- [fol. 18] trary to the revelant evidnece or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, or exercise that authority in an unreasonable manner.

Answering further the allegations in said paragraph the Railway avers that the plaintiff, Claiborne-Annapolis Ferry Company, is without legal right to question in this suit the corporate or charter powers of the defendant Railway to establish and operate a ferry as aforesaid.

10. Answering paragraph 10, the Railway admits the allegations therein contained, except that it denies that it has yet proceeded with the construction and operation of said ferry business; and except further that it denies that the said ferry business is or will be independent of its said railroad as aforesaid.

11. Answering paragraph 11, the Railway denies the facts contained therein and specifically denies that irreparable injury or legal injury of any kind will result to the plaintiff if the said order of the Commission of August 1, 1930 is not enjoined and set aside as prayed for by the plaintiff. The Railway further alleges that the plaintiff, Claiborne-Annapolis Ferry Company, is without legal right to maintain this suit for the reason that no right of the said plaintiff has been violated by the order of the In-

terstate Commerce Commission, complained of in said bill, since said plaintiff has no vested right to a monopoly of all of the ferry business on Chesapeake Bay, but has only a privilege to operate a ferry between certain points on such Bay, other than the points between which the defendant, Chesapeake Beach Railway Company, has heretofore been granted a certificate of public convenience and necessity for the operation of a ferry, by the defendant Commission, pursuant to section 1 (18) to (20) of the Interstate Commerce Act, 41 Stat. 476.

[fol. 19] 12. Further answering the bill the Railway, except as hereinafter expressly admitted, denies the truth of each and all the allegations contained in said bill in so far as they conflict either with the allegations in this answer or with the statements of fact set out in said report and order of the Commission, which is attached hereto and made a part hereof.

All of which matters and things the defendant Railway is ready to aver, maintain and prove, as this Honorable Court shall direct, and hereby prays that said bill of complaint be dismissed.

Chesapeake Beach Railway Company, by Eugene Fox, Executive Vice-President. (Corporate Seal.)
Olcott, Holmes, Glass, Paul & Havens, Jonathan C. Gibson, Shoreham Building, Washington, D. C., Attorneys for the Defendant Chesapeake Beach Railway Company.

[fol. 20] *Duly sworn to by Eugene Fox. Jurat omitted in printing.*

[fol. 21] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

MOTION TO DISMISS AND ANSWER OF THE ABOVE-NAMED FRANK MCMANAMY, BALTHASAR H. MEYER, CLYDE B. AITCHISON, JOSEPH B. EASTMAN, ERNEST I. LEWIS, EZRA BRAINERD, JR., CLAUDE R. PORTER, PATRICK J. FARRELL, HUGH M. TATE, WILLIAM E. LEE, AND C. D. MAHAFFIE, INDIVIDUALLY AND AS MEMBERS OF THE INTERSTATE COMMERCE COMMISSION—Filed February 2, 1931

Motion to Dismiss

Come now Frank McManamy, Balthasar H. Meyer, Clyde B. Aitchison, Joseph B. Eastman, Ernest I. Lewis, Ezra Brainerd, Jr., Claude R. Porter, Patrick J. Farrell, Hugh M. Tate, William E. Lee and C. D. Mahaffie, individually and as members of the Interstate Commerce Commission, and move that the court dismiss the bill of complaint filed herein as against said defendants, and as grounds of said motion say:

1. On its face the bill of complaint shows that this is a suit to enjoin, set aside, and annul a certain order of the Interstate Commerce Commission in said bill of complaint described, which as exclusive jurisdiction over such cases is conferred by the Urgent Deficiencies Act of October 22, [fol. 22] 1913, Chapter 32, 38 Stat. 219, upon the several District Courts of the United States, and no such jurisdiction is conferred upon the Supreme Court of the District of Columbia.

2. That the United States has not been made a party to this suit, whereas, under the law, all cases brought to enjoin, set aside, annul or suspend orders of the Interstate Commerce Commission are required to be brought against the United States.

3. That it does not appear from the bill of complaint that the plaintiff has any legal standing to bring suit to set aside the order of the Interstate Commerce Commission described in said bill of complaint.

4. That the bill of complaint is without equity upon its face and does not state any cause of action in equity or otherwise against the Interstate Commerce Commission or its members.

5. That the bill of complaint does not contain either statements or allegations of fact which show that the said order of the Interstate Commerce Commission causes, or will cause, plaintiff to suffer such legal damage as would entitle it to the injunctive relief prayed in said bill of complaint.

6. On its face the bill of complaint shows that in the doing of the matters and things alleged in the bill of com-

plaint herein these defendants acted, not individually, but as members of the Interstate Commerce Commission in their official capacity; wherefore these defendants pray that the case be dismissed against them as individuals.

Answer

Come now Frank McManamy, Balthasar H. Meyer, Clyde B. Aitchison, Joseph B. Eastman, Ernest I. Lewis, Ezra Brainerd, Jr., Claude R. Porter, Patrick J. Farrell, Hugh M. Tate, William E. Lee and C. D. Mahaffie, individually and as members of the Interstate Commerce Commission (hereinafter called the Commission), defendants in [fol. 23] the above-entitled suit, now and at all times hereafter saving and reserving to themselves all manner of benefit and advantage of exception to the many errors and insufficiencies in the bill of complaint contained, for answer thereunto, or unto so much, or such parts thereof as they are advised that it is material for them to answer, answer and say:

1. Answering the opening paragraph and paragraphs 1, 2 and 3 of the bill of complaint, these defendants admit the truth of the allegations therein contained.

2. Answering paragraph 4 of the bill of complaint, these defendants admit that this is a case brought to enjoin, set aside, annul and suspend an order of the Interstate Commerce Commission, but they deny that the statutes referred to in said paragraph of the bill of complaint confer jurisdiction of such suit upon the Supreme Court of the District of Columbia, deny that said Supreme Court of the District of Columbia has jurisdiction of this suit, and deny that this suit is brought pursuant to said statutes.

3. Answering paragraphs 5 and 6 of the bill of complaint, these defendants admit the truth of the allegations therein contained, except that these defendants say that they have no knowledge as to whether or not the Chesapeake Beach Railway Company, defendant herein, has any other charter authority to operate ferry service than as stated in said paragraph 6 of the bill of complaint.

4. Answering paragraphs 7, 8, 9, 10 and 11 of the bill of complaint, these defendants admit and allege that on or about December 26, 1929, the defendant, pursuant to the

provisions of paragraphs (18) to (21), inclusive, of Section 1 of the Interstate Commerce Act, filed its application [fol. 24] to the Interstate Commerce Commission for a certificate of public convenience and necessity for the extension of its line of railroad by the establishment and operation of a ferry for the transportation of passengers and property between Chesapeake Beach in Calvert County, Md., on the western shore of Chesapeake Bay, to a point on Trippe's Bay in Dorchester County, Md., on the eastern shore of Chesapeake Bay; that said application was designated upon the records of the Interstate Commerce Commission as Finance Docket No. 8013, Chesapeake Beach Railway Company Ferry; these defendants further admit and allege that in said proceeding, so instituted as above set forth, Division 4 of the Commission (which division then consisted of defendants Balthasar H. Meyer, Joseph B. Eastman and Thomas F. Woodlock, the last named being no longer a member of the Commission), on or about August 1, 1930, made a report and caused the certificate of the Commission to issue thereunder as prayed in the application above mentioned, copies of which report and certificate are attached to and made a part of this answer as Exhibit A thereto, and that said report and certificate are published at 166 I. C. C. 293; that the plaintiff herein was a party to said proceeding having been permitted by said Division 4 of the Commission to intervene and participate in said proceeding in opposition to the granting of said certificate; that these defendants refer the court to the text of said report and certificate (Exhibit A to this answer) for full, complete and accurate information concerning the contents thereof and for a description of the proceedings before the Commission upon which the report and certificate were and are based; that at hearings in said proceeding a large volume of testimony and other evidence bearing upon the matters covered by said [fol. 25] report and certificate was submitted to said Division 4 of the Commission for consideration, including testimony and other evidence submitted on behalf of plaintiff herein by its counsel; that at said hearings and subsequently, both orally and in briefs filed in said proceeding, questions relating to said matters were fully argued and submitted to said Division 4 of the Commission for determination, whereupon the Commission, acting by and through said Division 4, decided and determined said mat-

ters and entered and served upon all parties to said proceeding the aforesaid report and certificate; that said report and certificate include all the Commission's findings of fact which are required by law and the Commission's decisions and conclusions in the premises, and that, upon the evidence aforesaid, the Commission made the findings and stated the conclusions upon which said certificate is based.

These defendants further allege that the conclusions and order of the Commission were and are, and that each of them was and is fully supported and justified by the evidence submitted to in the proceeding aforesaid.

These defendants further allege that in making said report Division 4 of the Commission considered and weighed carefully in the light of the knowledge and experience of its members, each fact, circumstance, and condition called to its attention on behalf of the parties in said proceeding by their respective counsel, including all the matters covered by the allegations of the bill of complaint herein.

These defendants further allege that said certificate was not made or entered by the Commission either arbitrarily [fol. 26] or unjustly, or contrary to the relevant evidence or without evidence to support it; that in making said certificate the Commission did not exceed the authority which had been duly conferred upon it, or exercise that authority in an unreasonable manner; and these defendants deny the truth of each of and all the allegations to the contrary contained in said bill of complaint.

Further answering paragraph 9 of the said bill of complaint, these defendants deny the truth of all the allegations therein contained except the allegation contained in subdivision (c) of said paragraph 9, relative to the scope of the charter powers of defendant, Chesapeake Beach Railway Company, which paragraph and the allegations thereof these defendants say are irrelevant and impertinent to the issues of this case and to the issues which may legally be presented to a court in a proceeding brought to enjoin, set aside, annul or suspend an order of the Interstate Commerce Commission, but as to said allegation, if it is material for these defendants to answer, they deny the truth thereof.

Further answering paragraph 10 of said bill of complaint these defendants say that they have no knowledge of the

matters and things in said paragraph alleged, and that, therefore, they neither admit nor deny the truth of said allegations.

Further answering paragraph 11 of said bill of complaint these defendants deny that the plaintiff will suffer permanent or irreparable damage or injury, and denies that the plaintiff will suffer any legal injury in the premises.

Except as herein expressly admitted, these defendants deny the truth of each of and all the allegations contained [fol. 27] in said bill of complaint in so far as they conflict either with the allegations herein or with the statements or conclusion of facts in said report and certificate of the Commission, which are hereby referred to and made a part hereof.

All of which matters and things these defendants are ready to aver, maintain and prove as this Honorable Court shall direct and hereby pray that said bill of complaint be dismissed.

Frank McManamy, Balthasar H. Meyer, Clyde B. Aitchison, Joseph B. Eastman, Ernest I. Lewis, Ezra Brainerd, Jr., Claude R. Porter, Patrick J. Farrell, Hugh M. Tate, William E. Lee, and C. D. Mahaffie, by Nelson Thomas, Attorney. Daniel W. Knowlton, Chief Counsel, of Counsel.

[fol. 28] *Duly sworn to by Ezra Brainerd, Jr. Jurat omitted in printing.*

[fol. 29] EXHIBIT "A" TO ANSWER

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 8013

CHESAPEAKE BEACH RAILWAY COMPANY FERRY

Submitted July 24, 1930. Decided August 1, 1930

Certificate issued authorizing the Chesapeake Beach Railway Company to establish ferry service across Chesapeake Bay between Chesapeake Beach and a point on Trippe's Bay, near Hudson, in Calvert and Dorchester Counties, Md.

George E. Holmes and Harry C. Ames for applicant.

Philip B. Perlman for Claiborne-Annapolis Ferry Company, intervener.

Report of the Commission

Division 4, Commissioners Meyer, Eastman, and Woodlock

By Division 4:

Exceptions were filed by the intervener to the report proposed by the examiner.

The Chesapeake Beach Railway Company, a carrier by railroad subject to the interstate commerce act, on December 26, 1929, filed an application under section 1 (18) of the act for a certificate that the present and future public convenience and necessity require the extension of its existing line of railroad by establishing and operating a ferry across Chesapeake Bay between the eastern terminus of the line at Chesapeake Beach to a point on what is known as the Thomas J. Seward farm on Trippe's Bay, about 10 miles west of, and on the State highway leading to, the town of Cambridge, a distance of 16 miles, in Calvert and Dorchester Counties, Md. A hearing has been had. The Claiborne-Annapolis Ferry Company, which operates in ferry service across Chesapeake Bay between Annapolis and Claiborne, Md., intervened in opposition to the applicant's proposal. The Public Service Commission of Maryland has advised that it does not desire to make any representations in this proceeding.

By charter obtained from the State of Maryand in September, 1891, the Washington & Chesapeake Beach Railway Company was authorized to construct and operate a line of railroad from a point in the District of Columbia in a southeasterly direction to certain points on Chesapeake Bay and to operate vessels to connect the railroad with other points by water. Prior to completion of the line, this company defaulted in the performance of its obli- [fol. 30] gations with respect to $1,000,000 of first-mortgage bonds and its properties were sold in foreclosure proceedings. On March 7, 1896, title to the property, rights, and franchises theretofore belonging to the old company were acquired by the applicant.

The applicant's railroad extends from Chesapeake Junction, D. C., through Marlboro, Pennsylvania Junction, and Owings, to Chesapeake Beach, Md., 29.04 miles. Connec-

tion is made at Chesapeake Junction with a line of the Baltimore & Ohio Railroad Company and at Pennsylvania Junction with a line of the Pennsylvania Railroad Company. Freight is regularly handled in interchange with those carriers.

It is stated that the applicant's line has never been a paying investment. The company is now in default in the payment of the principal and interest of $1,000,000 of first-mortgage bonds which matured July 1, 1923. All these bonds, all the applicant's outstanding capital stock, and certain liens and claims against the property are now owned by one William V. Hodges, as trustee for a number of equitable interests.

Income statements submitted in the record show that in each of the years from 1924 to 1928, inclusive, operating deficits ranging from $4,077.09 to $18,253.12 were sustained. In June, 1929, the company came under new management. As a result of economies effected during the latter part of the year, it earned net railway operating income amounting to $7,439.59. The principal savings, aggregating $20,320.46, were in reduced expenditures for maintenance. A witness for the applicant testified to the effect that the savings were not accomplished at the expense of proper maintenance, contending that the properties previously were overmaintained.

During the same 6-year period, revenues earned by the applicant were divided as to principal sources, as follows:

Year	Revenues [1]		Year	Revenues [1]	
	Passenger	Freight		Passenger	Freight
1924	$103,982	$34,409	1927	$73,655	$37,020
1925	97,118	37,578	1928	68,451	49,171
1926	80,258	40,334	1929	60,679	57,467

[1] Cents omitted.

As indicated by these statistics, the applicant derives most of its revenues from passenger traffic. In recent years revenues from this source have steadily declined owing to increasing motor-vehicle competition over improved highways. The fact that the freight traffic has shown an upward tendency is attributed to growth, in population and business activities, of communities served by the line.

[fol. 31] The origin of the present proposal is referred to below. There is testimony to the effect that after a careful survey of the situation, the applicant determined that the addition of ferry service will be a profitable enterprise which would enable the applicant to earn its way and at the same time provide needed service.

Plans for the proposed ferry contemplate the purchase of two new automobile-and-passenger ferryboats designed to carry 95 vehicles and 1,800 passengers. Each of these vessels is to be equipped with two 1,200-horsepower marine-type Diesel engines. Terminal facilities at Chesapeake Beach are to be provided by the construction into Chesapeake Bay of a causeway 1,250 feet long and 50 feet in width, further extended 750 feet by an open wharf 40 feet wide. Similar construction will be required at the eastern terminus on Trippe's Bay. Approach to the piers will be through channels 12 feet deep. Permits requisite to the performance of such work in navigable waters have been obtained from appropriate public authority.

The cost of the project is estimated to be as follows: Two vessels at $350,000 each, $700,000, and construction of terminals, including an allowance for maintenance dredging of the eastern channel for a year or two, if necessary, $385,442; total, $1,085,442. To provide the necessary funds the applicant contemplates issuing $750,000 of new first-mortgage bonds and $525,000 of equipment-trust certificates. Hodges has agreed to accept $600,000 of second-mortgage bonds in full satisfaction of amounts due on account of the principal and interest of the outstanding bonds. If authorized, construction work would begin promptly and be completed by May 1, 1931.

The territory between the east shore of Chesapeake Bay and the Atlantic Ocean, sometimes referred to as the Del-Mar-Va peninsula, sometimes as the Eastern Shore, includes 11 counties of the States of Maryland and Virginia. With reference to the Choptank River, the estuary of which forms an arm of the bay slightly north of the latitude of Cambridge, five Maryland counties (Cecil, Kent, Queen Anne's, Talbot, and Caroline) lie to the north, and four Maryland counties (Dorchester, Wicomico, Somerset, and Worcester) and two Virginia counties (Accomac and Northampton) lie to the south. The six counties last mentioned, hereinafter

referred to as the lower Eastern Shore, aggregate 4,135 square miles in area and have a total population estimated at 248,294. In general the Eastern Shore is a fertile agricultural section from which products of farm and orchard are marketed in relatively near-by metropolitan areas.

The principal shipping and jobbing centers of the lower Eastern Shore are Accomac, Crisfield, Pocomoke, Princess [fol. 32] Anne, Cambridge, and Salisbury. These towns suffer disadvantage from circuitous routes to natural markets and trading centers at Baltimore, Washington, and points west. This situation arises from the fact that the intervener's ferry provides the southernmost means of crossing the bay available to traffic between the lower Eastern Shore and the cities mentioned. Cambridge, focal point of highways traversing the territory south of the Choptank, is 47.5 miles from Claiborne by highway. Compared with existing routes via Claiborne and Annapolis, the more southerly ferry proposed by the applicant would effect the following reductions in distances to markets from 13 representative points on the lower Eastern Shore, including the towns previously mentioned and the seaside resort of Ocean City, in Worcester county:

From—	To Washington		To Baltimore Miles
	Route A [1] Miles	Route B [2] Miles	
Salisbury and 11 other points	24	30	6
Cambridge	36	42	18

[1] Route A, highway, via Cambridge, to Trippe's Bay; ferry to Chesapeake Beach; highway beyond.

[2] Route B, highway, via Cambridge, to Trippe's Bay; ferry to Chesapeake Beach; applicant's line beyond.

All-high-way routes via Elkton, Md., around the head of the Bay, involve out-of-line hauls which increase the distances, as compared with the existing ferry route, from Salisbury and 11 other points to Baltimore by 86 miles and to Washington 122 miles, and from Cambridge to Baltimore, by 65 miles, and to Washington 101 miles. The applicant concedes that to the upper five counties distances would be greater by its ferry than by that of the intervener.

The distance from Claiborne to Annapolis via the intervener's route is about 19 miles, requiring a trip of about 1.5 hours. Between the termini of the proposed ferry the distance across the Bay is 15.75 miles. The applicant intends

to cover this distance in one hour. Its ability to do so is doubted by the intervener. Having regard to seasonal variation in traffic between the affected territories, the service contemplated by the applicant is six round trips daily between May 1 and October 15 and four round trips daily between October 16 and April 30. It is contended that this service would "evolve" a system of transportation for expeditious handling of motor vehicles and persons traveling by motor vehicle in new routes shorter than now available between points on the lower Eastern Shore and points on the mainland. This is the assigned primary purpose of the proposal.

[fol. 33] Traffic expected to use the proposed ferry may be grouped according to classes, as follows:

1. Private automobiles and motor busses transporting (*a*) tourist visitors and residents of the National Capital to and from Ocean City and other points on the Eastern Shore, (*b*) Eastern Shore patrons of an amusement park being developed at Chesapeake Beach by the Chesapeake Beach Hotel Company, and (*c*) persons traveling from one shore of the bay to the other in ordinary commercial and social communications.

2. Motor trucks transporting fresh vegetables and fruits and seafood products from points of origin on the Eastern Shore to markets at Washington, and possibly Baltimore.

3. Motor trucks used by west-shore jobbers in distributing various commodities to dealers on the Eastern Shore.

4. Persons, in addition to the drivers, occupying passenger vehicles listed above, persons traveling on through tickets between Chesapeake Junction and a station proposed to be established on the Eastern Shore at or near Hudson, and west-shore visitors to the amusement park who may be attracted by a voyage on the waters of the bay.

5. Package freight moving from points in C. F. A. or trunk-line territory to the station at Hudson.

The problem of estimating the volume of traffic which may use the ferry has been approached by the applicant in two ways:

1. The first estimate is derived from highway-traffic statistics developed by the Maryland State Roads Commission

through 12-hour counts at various points on an average of one day a month. The count at Claiborne indicates that from October 1, 1928, to September 30, 1929, the number of vehicles moving to and from that point averaged 780 per day. Inasmuch as there is no town of commercial importance within 15 miles of Claiborne, it has been assumed that all this traffic moved to and from the intervener's ferry or to meet the bus lines which operate at either terminal. It was further assumed that, of the daily traffic observed at Claiborne, at least 250 vehicles, or approximately 32 per cent had origin or destination south of the Choptank, since this section has the more important towns from the standpoint of agricultural production, and also the town of Ocean City, the only ocean resort in the State of Maryland. Most of the transbay traffic to and from the lower Eastern Shore uses the intervener's ferry.

Upon the foregoing assumptions, and an assumed normal increase of 10 per cent annually, the following estimates of [fol. 34] traffic which may be expected to use the proposed ferry has been computed and submitted in the record.

	First year	Second year	Third year	Fourth year	Fifth year
Daily average:					
Vehicles	250	275	302	332	365
Passengers[1]	500	550	605	665	731
Annual total:					
Vehicles[2]	91,250	100,375	110,230	121,180	133,225
Passengers	182,500	200,750	220,825	242,725	266,815

[1] Two persons per vehicle in addition to driver.

[2] According to State road commission statistics, highway traffic on the Eastern Shore increased 57 per cent in the period from January 1, 1926, to September 30, 1929.

This estimate does not take into account new business expected to be created by shorter routes via the proposed ferry.

2. In the second estimate the applicant's calculations are based on assumed use of the vessels in varying degrees, according to variations in the volume of highway traffic on account of seasons, week ends, Sundays, and holidays, with the following result:

Periods	Capacity of vessels [1]	Assumed use	Estimated traffic: Number of vehicles	Estimated traffic: Number of passengers
May 1—October 15: [2]				
Sundays and holidays (27)	29,160	[3] 75	21,770	43,540
Saturdays (24)	25,920	[3] 50	12,960	25,920
Other week days (117)	126,300	[3] 25	31,590	63,180
Total			66,320	132,640
October 16-April 30: [4]				
Sundays (28)		[3] 25	5,040	10,080
Week days (169)		[3] 15	20,380	40,760
Total			25,420	50,840
Total (12 months)			91,740	183,480
First estimate, first year			91,250	182,500

[1] At 90 vehicles per trip.
[2] 12 single trips per day.
[3] Percentage of capacity.
[4] 8 single trips per day.
[5] Vehicles per trip.

No estimate has been furnished as to package freight. The applicant expects that operation of the ferry would tend to increase the traffic over its railroad.

The intervener challenges the soundness of the applicant's estimates. Counsel pertinently points out that the number of vehicles actually crossing the bay to and from Claiborne in 1929 averaged but 209 per day, indicating that over 73 per cent of the vehicles observed at Claiborne were not bound in transbay movement. Although doubting that it would be possible for the applicant to obtain 32 per cent of the traffic now carried by the intervener, he maintains [fol. 35] that even if that ratio were applied to the actual ferry traffic the result would be only 24,432 vehicles, or 51,920 less than included in the estimate of traffic for the first year of operation. The applicant did not undertake to establish the existence of any definite relationship between the carrying capacity of ferry boats and the use of such facilities. It would seem that such a relationship scarcely can be determined in advance of experience. The testimony for the applicant is that the estimates represent its best judgment in the matter and are considered to be conservative, and that the proposed ferry will tend to develop new traffic which does not now move to the Eastern Shore because of the lack of adequate facilities for crossing the bay.

Estimates of prospective revenues are based on average charges of $3 per vehicle including driver, and 50 cents per passenger transported by ferry. Estimates of operating expense include items usually involved in vessel navigation, with the exception of depreciation. This item was omitted because the project is to be begun with new equipment and appurtenances. Presumably the applicant will comply, in its accounting, with applicable provisions of the classifications prescribed by us.

Theoretical income statements giving effect to the applicant's estimates of earnings from ferry traffic and increased traffic on its line of railroad are summarized below:

	First year	Second year	Third year	Fourth year	Fifth year
Railroad operations:					
Operation revenues..	$160,000	$172,000	$177,000	$183,000	$188,000
Operating expenses..	119,000	119,000	119,000	119,000	119,000
Net revenue from railway operations	41,000	53,000	58,000	64,000	69,000
Other deductions....	9,800	10,800	10,800	10,800	11,800
Net railway operating income.....	31,200	42,200	47,200	53,200	57,200
Ferry operations:					
Operating revenues..	365,000	401,500	441,102	484,902	533,082
Operating expenses..	103,567	103,567	103,567	103,567	103,567
Net operating revenue	261,433	297,933	337,535	381,335	429,515
Fixed charges[1].....	129,000	125,850	122,700	119,500	116,400
Other deductions....	15,000	15,000	15,000	15,000	15,000
Net operating revenue	117,433	157,083	199,835	246,785	298,115

[1] Interest on first-mortgage bonds and interest and amortization of principal of equipment-trust certificates. Apparently the second-mortgage bonds would be income bonds.

Combining the estimated results of operation of railroad and ferry, the applicant expects to earn, during the first five years of dual operation, net income increasing from $148,633 in 1931 to $355,315 in 1935.

In order to earn operating expenses, insurance premiums, taxes, and fixed charges (footnote 1, supra), it would be necessary that the vessels transport annually in the neighborhood of 62,000 vehicles and 124,000 passengers. [fol. 36] or a daily average of about 170 vehicles and 340 passengers. If this average could be approximated dur-

ing the off season, October 16 to April 30, the applicant's optimism would appear to be amply justified, because greater inducements to use the ferry in the summer vacation and producing seasons naturally could be expected to result in much heavier traffic during that portion of the year. Such information as is presented with respect to the fundamental economics of the situation appears in the testimony of witnesses representing the shipping and traveling interests actually or potentially concerned.

A representative of a Washington commercial organization expressed the belief that the applicant's traffic estimates are moderate. He testified that a survey of larger and more prominent hotels alone showed that 1,800,000 tourists visited the National Capital in 1925. On the same basis, the number of visitors is now estimated at 2,000,000 per year. Allowing for numerous accommodations of various classes not included in the survey, the witness thinks that 5,000,000 tourists visited Washington in 1929. According to this witness, the city has 600 industrial plants producing manufactured products valued at $100,000,000 annually. He contends that these industries are handicapped by existing facilities for transportation to the east and west, shippers depending mainly on the highways, and that the Eastern Shore, one of the richest agricultural territories within reasonable distance, is cut off except through some such means of transportation as proposed by the applicant. He expressed the opinion that the proposed ferry would be of great advantage to the people both of the District of Columbia and of the Eastern Shore.

Washington business men testified that the proposed ferry would open up relations with the Eastern Shore by enabling quicker and less expensive movement of agricultural products, quicker travel to and from Ocean City, and more advantageous solicitation and distribution from Washington of manufactured products marketed on the Eastern Shore.

A representative of a Washington commission house, dealing in fresh fruits and vegetables on consignment, testified to the effect that between April 15 and the middle or end of July this concern receives as high as 10 or 12 truck loads of produce per day and that the daily receipts average from 2.5 to 3 tons. The trucks move by ferry from Claiborne to Annapolis. The movement is sometimes de-

layed by overtaxing of the intervener's ferry facilities. As a consequence the market is missed and the shipments deteriorate, with resultant loss to the farmers. While the record does not afford any idea of the gross movement of Eastern Shore perishables to Washington, the witness thinks it is of sufficient volume to warrant another ferry. [fol. 37]. The applicant would adjust its ferry schedule to meet the requirements of this traffic with respect to time of delivery at Washington.

As to the tourist traffic it is stated that the Eastern Shore is of great interest to Washington residents and visitors. Many people, especially tourists from inland points, desire to reach watering places. Important considerations in the choice of routes and destinations are the time required for travel and facilities available for crossing water barriers encountered en route. Under present conditions, it is said, Atlantic City, N. J., and Virginia Beach, Va., are practically as accessible as Ocean City. Contributing to this situation are the assigned reasons that the Defense Highway, from Washington to Annapolis, is narrow and congested; that existing facilities for crossing the bay from Annapolis are inadequate on holidays and week-ends; and that the movement through Annapolis is retarded by congestion of narrow streets by lines of automobiles waiting admittance to the dock. The distance from Washington to Chesapeake Beach by highway now under construction will be from 4 to 6 miles less than the highway distance from Washington to Annapolis. By rail the distance from Washington to Chesapeake Beach is said to be considerably less than from Washington to Annapolis. Comparisons of schedules do not appear.

It was testified that many points of historic interest on the Eastern Shore are omitted from itineraries of tourists on account of limited ferry facilities and the time consumed in crossing Chesapeake Bay. A saving of half an hour in time is said to be the equivalent of 20 miles travel on land. An expert of automobile traffic expressed the view that the Eastern Shore needs better ferry facilities and stated that, with the establishment of the proposed ferry, travel across Chesapeake Bay would be doubled in two years. The interest of travelers in the attractions of the Eastern Shore would be stimulated by improved ferry service, somewhat more intensive advertising, and advice furnished at automobile information bureaus.

Cambridge is served by a subordinate line of the Pennsylvania system. The proposed ferry would put Cambridge on a direct line of travel between the lower Eastern Shore and the cities of Baltimore and Washington. Via the applicant's ferry, it is said, residents of Cambridge would be able to journey to Washington and return in the time now required to reach the city via Claiborne.

By highway, Ocean City is 98 miles from Claiborne and 62 miles from Cambridge. As compared with 133 miles via Claiborne, the distance from Washington to Ocean City via the proposed ferry and Cambridge would be 111 miles, a difference of 22 miles. There is no direct rail connection between Cambridge and Ocean City. It is stated that the [fol. 38] latter point is difficult of access from Washington except by automobile. A Washington witness thinks the time of travel to Ocean City would be reduced one-half through the improvement in ferry service and the decrease in mileage which the applicant's ferry would make possible. It is believed that Ocean City would derive material benefit from a substantial increase in the tourist traffic attracted to the community by reason of its proximity to the sea.

Because present facilities are considered unsatisfactory, many shippers of Wicomico and Somerset Counties often move their products to Washington over the circuitous all-highway route via Elkton. It was testified that these producers market a great deal of perishable commodities in Washington. The producing section is said to be growing and better ferry service would be of great advantage to the growers and merchants of the lower Eastern Shore, especially in providing more direct access to Washington. A resident of Salisbury believes that the traffic between the two shores of the bay is increasing to such an extent as to justify additional ferry service. The proposed ferry would be especially convenient in intercourse between the east and west shores of lower Maryland. The distance between Cambridge and Prince Frederick, in Calvert County, 14 miles from Chesapeake Beach and about the same distance from Owings, nearest station on the applicant's line, would be reduced 50 miles.

The matter of better facilities for crossing Chesapeake Bay has been a matter of lively interest in the lower Eastern Shore for a number of years owing to growing dissatisfaction with available outlets for the products of the

territory. About two years ago interested parties organized a corporation for the purpose of establishing ferry service between Cooks Point, at the mouth of the Choptank, and Chesapeake Beach. Application for a certificate of convenience and necessity was made to the State Commission but action thereon has been indefinitely deferred for want of a proper plan of finance. Subsequently the promoters of the project requested the applicant to interest itself in the matter of ferry service, and out of this appeal the present proposal eventually developed.

In recognition of the fact that the time required for crossing the bay between Annapolis and Claiborne is unduly long, the intervener is establishing at a point on Kent Island, directly opposite Annapolis, a new eastern terminal estimated to cost between $150,000 and $160,000. At the time of the hearing it was expected that ferry service between Annapolis and the new terminal would begin by May 15, 1930. The distance across the bay via this route [fol. 39] would be about 6.5 miles. The time required for a single trip is estimated from 25 to 35 minutes. During the present summer trips are to be made hourly. Half-hourly service will be provided during the summer of 1931. The carrying capacity of the vessels will be doubled through more frequent operation via the shorter route. It appears that the new terminal will be farther north than Claiborne, involving from 15 to 20 miles additional travel to and from the lower Eastern Shore.

Counsel for the intervener contends that the record does not justify the applicant's claims of necessity for the proposed ferry service. He concedes that the ferry would be of special convenience to a relatively small number of people residing in the vicinity of Chesapeake Beach and in territory adjoining Cambridge; but, it is argued, with the inauguration of the intervener's Annapolis-Kent Island service, the time of crossing the bay will be so shortened that the proposed ferry would effect little saving in time. On the contrary, it would take more time to reach almost any point on the Eastern Shore, except Cambridge and vicinity, by that route, if the calculated average speed of motor vehicles, 40 miles per hour, be correct. It is urged that the applicant's ferry would be of no convenience to persons traveling between Washington or Baltimore and

points north of the Choptank, which can be reached more quickly by either of the intervener's routes.

Further, it is maintained, there is not sufficient traffic, at present or in prospect, to support two ferries, whence the intervener apprehends that the applicant could derive no benefit from ferry operation and the intervener's ability to furnish adequate service might be limited. It was testified that the loss of 50 per cent of the traffic now obtained would necessitate material curtailment of present service. In support of these contentions the intervener cites financial difficulties heretofore experienced by it and by other carriers operating in ferry service across the northern reaches of Chesapeake Bay.

The intervener's witness testified that Easton, 17 miles southeast of Claiborne, is the gateway through which the present ferry traffic moves, and that the territory in which the traffice originates or is destined embraces seven of the nine Maryland counties on the Eastern Shore. He states that the four northern counties are directly tributary to the Clairborne ferry and thinks that any convenience of the applicant's ferry to the lower Eastern Shore would be offset by inconvenience to the upper counties, if the intervener were compelled to cease operation. He believes, also, that the difference in distance from Cambridge to Kent Island, as compared with Claiborne, would be [fol. 40] compensated by the shorter water trip via the new route.

During 1929, the total carrying capacity offered by the intervener, on the basis of trips actually made, aggregated 216,443 vehicles and 3,570,600 passengers. The ferries carried that year 76,352 vehicles and 260,950 passengers, or about 35 per cent of capacity as to vehicles and 7 per cent as to passengers. The witness observed that operating expenses are substantially the same whether the vessels move loaded or empty. He testified that there is little prospect of a material increase in the population of the Eastern Shore and states that new business can not be created because it is not there. He concedes that improvement in communication with the mainland is an issue of recurrent interest on the Eastern Shore.

The intervener has paid but one dividend ($15,000) since 1916. This seems partly attributable to reinvestment of earnings in physical improvement of the carrier's prop-

erties. The wisdom of replacing unsuitable equipment with vessels of modern design and capacity is reflected in the intervener's subsequent experience as to traffic and revenues. Two new vessels now in operation were acquired in 1926 and 1929, respectively.

The intervener carries little freight except as moving in motor trucks. The following tabulation shows an analysis of revenues earned during the past six years:

	1924	1925	1926	1927	1928	1929
Passengers	$77,697	$87,394	$94,045	$114,374	$124,707	$143,003
Vehicles	78,241	96,491	113,860	138,341	160,206	189,630
Freight	.....	190	318	201	.....	.....

Annual reports of the intervener to the State commission show the following results of operation: 1922, operating deficit, $1,475.36; 1923, operating deficit, $3,309.37; 1924, surplus from operation, $16,145.15; 1925, surplus from operation, $11,908.78; 1926, surplus from operation, $6,759.91; 1927, net income, $61,284.22; 1928, net income, $130,550.59; and 1929, net income, $125,869.59. At the end of 1929, the intervener's surplus amounted to $243,384.10, as compared with a corporate deficit of $216,058.15 on December 31, 1922.

It is concluded from the record that, assuming that both the Annapolis ferry and the proposed ferry may survive, the applicant's proposal herein will be in the public interest. Failure of the project would result in no worse transportation conditions than now obtain unless, perchance, the intervener's ability to perform service meanwhile were seriously impaired. The time within which a volume of traffic sufficient to support the new venture may [fol. 41] materialize is problematical, but it would seem that there is at least the possibility that a remunerative traffic eventually may be developed. A more desirable situation would exist if the experiment were to be undertaken by a stronger carrier. Proper precaution in the premises indicates the necessity for the adoption of a conservative financial plan under which fixed charges will be held to the minimum. Under the provisions of section 20a of the interstate commerce act, any issue of securities by the applicant will be subject to prior authorization by us.

As to possible effect of competition by the proposed ferry, the intervener seems unduly alarmed. With more efficient equipment now in use and operation over the

shorter route, permitting service more frequent than the applicant contemplates or, indeed, would be able to furnish without additional vessels, the intervener should be able to retain all traffic which normally should flow to its ferry. A considerable part of the traffic expected by the applicant would not use the intervener's facilities in any case. The intervener has attained a position of strength through regard for the needs and convenience of the public. Continued prosperity of that carrier should be assured by adherence to that policy, because frequent service would afford an effective weapon in any competition which the applicant's ferry might offer.

On exceptions brief counsel for the intervener contends (1) that we are not authorized by law to issue a certificate of public convenience and necessity for the establishment of a general ferry service from point to point within a State; and (2) that the applicant has no authority, under the provisions of its charter, to engage in general ferry business. The force of both contentions is denied by the applicant. Upon the facts disclosed in this record, we are of opinion that we have jurisdiction in the premises.

Upon the facts presented, we find that the present and future public convenience and necessity require the establishment by the Chesapeake Beach Railway Company of ferry service across Chesapeake Bay, in Calvert and Dorchester Counties, Md., as set forth in the application.

An appropriate certificate will be entered. Such certificate will provide that it shall take effect and be in force from and after 30 days from its date.

Certificate of Public Convenience and Necessity

Issued August 1, 1930

A hearing and investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, [fol. 42] which report is hereby referred to and made a part hereof:

It is hereby certified, That the present and future public convenience and necessity require the establishment by the Chesapeake Beach Railway Company of ferry service across Chesapeake Bay, in Calvert and Dorchester Coun-

ties, Md., as set forth in the application and said report: Provided, however, and this certificate is issued upon the express condition, that construction work in connection with the establishment of such service shall be commenced on or before January 1, 1931, and that all such construction work shall be completed on or before December 31, 1931.

It is ordered, That the Chesapeake Beach Railway Company shall report to this commission in writing the commencement and completion of such construction work within 15 days after such commencement and completion, respectively.

It is further ordered, That, when filing schedules establishing rates and fares applicable to and in connection with said ferry service, the Chesapeake Beach Railway Company shall in such schedules refer to this certificate by title, date, and docket number.

It is further ordered, That the Chesapeake Beach Railway Company shall report to this commission as required by valuation order No. 24, effective May 15, 1928.

And it is further ordered, That this certificate shall take effect and be in force from and after 30 days from its date.

By the commission, division 4.

George B. McGinty, Secretary. (Seal.)

[fol. 43] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

MOTION TO MAKE UNITED STATES A PARTY DEFENDANT—Filed February 6, 1931

Comes now the plaintiff, by its attorneys, and moves for leave to make the United States a party defendant hereto.

Jesse I. Miller, George E. Edelin, Attorneys for Plaintiff, 1518 K Street, N. W.

[fol. 44] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER MAKING UNITED STATES DEFENDANT—Filed February 13, 1931

Upon consideration of the motion of the plaintiff it is, by the Court, this 13'' day of February, 1931,

Ordered that the said motion be and the same is hereby granted and the United States is made a party defendant hereto.

Jesse C. Adkins, Justice.

[fol. 45] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ANSWER OF UNITED STATES OF AMERICA—Filed February 20, 1931

First Defense

United States, one of the defendants in the above-entitled cause, for its First Defense to the bill of complaint says:

(a) The bill of complaint is without equity on its face and the facts therein alleged are insufficient to constitute a cause of action against the United States.

(b) The plaintiff is without legal or other valid right under the Act invoked by the bill, or under any other law, to maintain this suit against the United States.

(c) The statements and allegations of fact contained in the bill of complaint are insufficient to show that the order of the Interstate Commerce Commission causes or will cause plaintiff to suffer such legal damage as would entitle it to the injunctive relief prayed in the bill of complaint.

Wherefore United States moves to dismiss the bill of complaint and prays that an appropriate order may be entered.

[fol. 46] Second Defense

United States for its Second Defense to the bill of complaint answers and says:

I

United States admits the allegations contained in paragraphs 1 and 2 of the bill of complaint.

II

Answering paragraphs 3 and 4 of the bill of complaint United States admits and alleges that the Act of October 22, 1913, c. 32, 38 Stat. 219, referred to in said paragraph 4, provides that the several District Courts of the United States shall have jurisdiction to enjoin, annul, and set aside orders of the Interstate Commerce Commission; that said Act expressly provides that such suits shall be brought against the United States, and that they shall be heard and determined by three United States Judges, one of whom shall be a Circuit Judge.

III

United States admits for the purposes of this suit the truth of the allegations contained in paragraphs 5 and 6 of the bill of complaint, except that it denies knowledge of the allegation in said paragraph 6 that the charter of the Washington and Chesapeake Beach Railway Company therein referred to was and is the only authority vested in said company to operate a ferry service, and as to that allegation United States neither admits nor denies.

IV

Answering paragraph 7 of the bill of complaint, United States admits and alleges that on December 26, 1929, the Chesapeake Beach Railway Company filed an application [fol. 47] before the Interstate Commerce Commission for a certificate of public convenience and necessity for the extension of its line by establishing and operating a ferry across Chesapeake Bay between the eastern terminus of the line at Chesapeake Beach to a point on Trippe's Bay in Dorchester County, Maryland; that said application was filed pursuant to § 1 (18-21) of the Interstate Commerce Act (41 Stat. L. 476, U. S. C. Tit. 49, § 1 (18-21) to which the Court is respectfully referred for full and complete information concerning the provisions thereof; that the full and complete definition of the term "railroad" contained in § 1 (3) of said Act is as follows:

The term "railroad" as used in this Act shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether

owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property.

That upon the filing of said application the Commission held and conducted full and complete hearings at which all parties, including the plaintiff herein, appeared and were accorded full and ample opportunity to be heard and to present such evidence as they desired.

Except as so expressly admitted United States denies each and every allegation made and contained in said paragraph 7, and expressly denies that it appeared in the record of the hearing before the Commission that the present and/or future public convenience and necessity do not require the extension of the railway line of the Chesapeake Beach Railway Company by operation of the ferry in connection therewith.

V

Answering paragraph 8 of the bill of complaint, United States admits and alleges that on August 8, 1930, the Interstate Commerce Commission, pursuant to authority conferred upon it by § 1 (18-21) of said Act, and after the full [fol. 48] hearing described and alleged in the preceding paragraph hereof and upon the testimony and representations submitted by the parties to said hearings, including the plaintiff herein, made and entered its report and order (165 I. C. C. 293) finding that the present and future public convenience and necessity require the establishment by the Chesapeake Beach Railway Company of the ferry service as described in said report, and issued its certificate of public convenience and necessity authorizing and permitting said railway company to proceed with the establishment and operation of said ferry service, which said report and order are annexed to the answer heretofore filed in this cause by the Interstate Commerce Commission and made a part thereof as Exhibit A, and to which the Court is respectfully referred for full and complete information concerning the Commission's findings and conclusions and the permission and authority granted by said order.

Further answering said paragraph 8, United States alleges that the findings and conclusions of the Commission set forth in said report, and the order made and issued thereon authorizing the establishment and operation of said ferry service, are fully supported and justified by the evidence submitted by the parties and contained in the record before the Commission in said proceeding.

VI

United States denies each and every allegation made and contained in paragraph 9 of the bill of complaint, and says that the allegation in subdivision (c) of said paragraph relative to the scope of the charter powers of the Chesapeake Beach Railway Company is irrelevant, incompetent, and immaterial to the issues of this case and to the issues which may be legally presented to the Court in a suit to enjoin, set aside, annul, or suspend an order of the Interstate Commerce Commission, but if said allegation be material, United States denies the truth thereof.

[fol. 49]

VII

United States denies knowledge of the facts of the allegations contained in paragraph 10 of the bill of complaint and as to said allegations it neither admits nor denies.

VIII

Answering paragraph 1 of the bill of complaint United States denies each and every allegation thereof and expressly denies the allegation that plaintiff will suffer permanent and irreparable damage and injury unless the Commission's said order is annulled and enjoined, and further denies that plaintiff will suffer any legal damage or injury as a result of said order.

Except as herein expressly admitted United States denies the truth of each and all the allegations contained in the bill of complaint.

Wherefore, having fully answered the bill of complaint, United States prays that the relief therein sought be denied and that the bill be dismissed at the costs of the plain-

tiff, and that it have such other and further orders, decrees, or relief as may be just and proper.

Elmer B. Collins, Special Assistant to the Attorney General. John Lord O'Brian, Assistant to the Attorney General. Leo A. Rover, United States Attorney.

[fol. 50] *Duly sworn to by Elmer B. Collins. Jurat omitted in printing.*

[fol. 51] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

REPLICATION TO ANSWER OF THE INTERSTATE COMMERCE COMMISSION—Filed March 14, 1931

Comes now the plaintiff and for a replication to the answer of the Interstate Commerce Commission, filed herein says:

Referring to paragraph numbered four of the answer of the Interstate Commerce Commission, plaintiff denies that either the conclusion or order of the Commission was or is, and/or that each of them was and/or is, fully, or at all, supported and/or justified by the evidence submitted to it in said proceeding.

Plaintiff avers that said certificate of public convenience and necessity was made and entered by the Commission arbitrarily and unjustly and contrary to the relevant evidence and without evidence to support it; plaintiff avers that in making said certificate the Commission did exceed the authority which had been conferred upon it by law and that it did exercise and assume authority in an unreasonable manner.

Claiborne-Annapolis Ferry Company, by Jesse I. Miller, Philip B. Perlman, Attorneys. Jesse I. Miller, Philip B. Perlman, George E. Edelin, Attys.

[fol. 52] *Duly sworn to by Jesse I. Miller. Jurat omitted in printing.*

[fol. 53] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

REPLICATION TO ANSWER OF UNITED STATES OF AMERICA—Filed March 14, 1931

Comes now the plaintiff and for a replication to the answer of the United States, filed herein says:

It is denied that either the findings or conclusions of the Commission, set forth in its said report, and/or the order made and issued thereon authorizing the establishment and/or operation of said ferry service are fully, or at all, supported and/or justified by the evidence submitted by the parties and/or contained in the record before the Commission in said proceeding.

Claiborne-Annapolis Ferry Company, by Jesse I. Miller, Philip B. Perlman, Attorneys. Jesse I. Miller, Philip B. Perlman, George E. Edelin, Attys.

Duly sworn to by Jesse I. Miller. Jurat omitted in printing.

[fol. 54] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

REPLICATION TO ANSWER OF CHESAPEAKE BEACH RAILWAY COMPANY—Filed March 14, 1931

Comes now the plaintiff and for a replication to the answer of the Chesapeake Beach Railway Company, filed herein says:

Referring to paragraph nine of the answer of the Chesapeake Beach Railway Company, plaintiff says, upon information and belief, that notice of an application of the Chesapeake Beach Railway Company to "extend" its line by a ferry service was given to the Governor of the State of Maryland, and further upon information and belief plaintiff avers that the Public Service Commission of Maryland, acting for and in behalf of said State and Governor, advised the Interstate Commerce Commission that it did not desire to make any representations upon an application of the Chesapeake Beach Railway Company to "extend" its line by a ferry; that thereafter it became apparent to the Public Service Commission of the State of

Maryland, in its aforesaid capacity, that the Chesapeake Beach Railway Company did not desire to "extend" its line by a ferry but, to the contrary, that it did purpose and desire to operate a general ferry not connected with and not to be used by said railroad in connection with its railway line. That thereupon the Public Service Commission of the State of Maryland protested to the Interstate Commerce Commission by a letter bearing date October 14, 1930, [fol. 55] in the words and figures as follows:

Public Service Commission of Maryland

October 14, 1930.

Hon. B. H. Meyer, Interstate Commerce Commission, Washington, D. C.

DEAR SIR: The Public Service Commission of Maryland has received a copy of the brief of the Chesapeake Beach Railway Company in the matter of the proposed extension of its railway line between Washington, D. C. and Chesapeake Beach, Maryland, by the establishment of a ferry connecting with its railway line at Chesapeake Beach, and extending across the Chesapeake Bay to a point on Trippe's Bay in Dorchester County, Maryland.

When you advised this Commission of the application of the Chesapeake Beach Railway Company, the Commission, after receiving an opinion from its General Counsel, Hon. William Cabell Bruce, wrote you that the Commission had no representations to make in the matter.

The brief of the Company, now before me, states:

"Assuming that such a question could have been raised (the authority of the Interstate Commerce Commission to grant a certificate covering a general ferry service in addition to interstate commerce) in the instant case, the State of Maryland has had its day in court, and having advised the Commission that it did not desire to make any representations in this proceeding, there is now an estoppel on the record in respect to any objections which could have been raised by it."

That is not the view of this Commission at all. When this Commission advised you that it had no representations to make in the matter, it had before it an application for the extension of a railway line by the addition of a water connection, for the purposes of the railway's interstate business. This Commission had not then, and has not now,

any representations to make about any extensions, either by land or by water, which the Chesapeake Beach Railway Company may desire to make for interstate business. The opinion of our General Counsel was based on rulings of the courts, and the statute law as to the Company's right to extend its lines, subject to the approval of your Commission, for the carrying on of interstate operations. It did not waive its jurisdiction over commerce orginating and terminating within the state, nor surrender any rights which the [fol. 56] State of Maryland has, under the law or under the decisions of the courts, such as the right and the duty of passing upon an application for the establishment of a general ferry, and the fixing of the rates of such ferry, would be.

If the ferry proposed to be established by the Chesapeake Beach Railway Company is designed to be operated as part of its interstate line, carrying passengers, freight, railway cars or automobiles that form parts of its actual interstate operations as a railway, then this Commission has no representations to make. But if it is proposed to operate a ferry between two points in Maryland and carry passengers, freight and automobiles in an intrastate traffic which has no connection with the interstate business of the Company, then this Commission feels that the Interstate Commerce Commission has no authority to grant permission for such an operation, permission for which, if granted at all, must be obtained from the Public Service Commission of Maryland.

If it is the purpose of the Chesapeake Beach Railway Company to establish a general ferry for the handling of intrastate traffic, under the guise of making an extension of its interstate line, and without submitting its case to this Commission, then the Commission will be compelled to apply to the courts for the protection of its authority and the sovereignty of the state, in this matter.

Very sincerely, —— ——, Chairman.

HEW/MW.

Copy to George R. Holmes, 170 Broadway, N. Y.; Harry C. Ames, Transportation Building, Washington, D. C., Counsel for Chesapeake Beach Railway Co.

It is denied that this plaintiff opposed the granting of the application upon the sole ground that public con-

venience and necessity did not require the establishment of the proposed ferry and/or that the operation thereof by the railway would interfere with and hamper the efforts of the plaintiff to give adequate service on its route; to the [fol. 57] contrary, plaintiff opposed the granting of the application upon the further ground that it was a fact that the Chesapeake Beach Railway Company purposed and desired to operate a general ferry, wholly within the State of Maryland; that the record before the Interstate Commerce Commission conclusively showed that neither public convenience nor necessity required any "extension" of the defendant railway's line by ferry but that, on the contrary, the only public convenience and/or necessity, if any, disclosed by such record, was for the operation of a general ferry, wholly within the State of Maryland not connected with or to be used by said defendant railway in connection with its line; and that the defendant, Interstate Commerce Commission, was without power or authority to authorize the construction and/or operation of such a ferry.

Plaintiff denies that either the findings or conclusions of the Interstate Commerce Commission were or are fully, or at all supported, and/or justified by the evidence submitted to the Interstate Commerce Commission at said proceeding.

Plaintiff further avers that the said order of August 1, 1930, was made and entered by the Commission contrary to the relevant evidence and without evidence to support it; plaintiff further avers that in making said order the Commission did exceed the authority which had been conferred upon it by law and did exercise its assumed authority in an unreasonable manner.

Claiborne-Annapolis Ferry Company, by Jesse I. Miller, Philip B. Perlman, Attorneys. Jesse I. Miller, Philip B. Perlman, George E. Edelin, Attys.

[fol. 58] *Duly sworn to by Jesse I. Miller. Jurat omitted in printing.*

[fol. 59] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

MOTION TO SET CASE FOR HEARING—Filed April 17, 1931

Comes now the plaintiff, by its attorneys, and moves to set a day for final hearing hereof before a court consisting

of two Justices of the Supreme Court of the District of Columbia, and one Justice of the Court of Appeals of the District of Columbia.

Jesse I. Miller and George E. Edelin, Attorneys for Plaintiff, 1518 K Street N. W.

We consent.

—— ——, Attorney for Chesapeake Beach Rrl. Co.
—— ——, Attorney for Interstate Comm. Commission. —— ——, Attorney for United States.

[fol. 60] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER FOR HEARING—Filed April 22, 1931

Upon consideration of the motion filed herein on the 17th day of April, 1931, it is, by the court, this 22nd day of April, 1931,

Ordered that this case be and the same is hereby set down for hearing on the 18th day of May, 1931, at 10 o'clock A. M. before Justice D. Lawrence Groner of the Court of Appeals for the District of Columbia and Chief Justice Alfred A. Wheat and Justice Jesse C. Adkins of the Supreme Court of the District of Columbia.

Jennings Bailey, Justice.

[fol. 61] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING AN EQUITY COURT

In Equity. No. 52254

CLAIBORNE-ANNAPOLIS FERRY COMPANY, Plaintiff,

vs.

UNITED STATES OF AMERICA, CHESAPEAKE BEACH RAILWAY COMPANY, INTERSTATE COMMERCE COMMISSION, et al., Defendants

Suit to Set Aside and Annul the "Certificate of Public Convenience and Necessity" Issued by the Interstate Commerce Commission on August 1, 1930

(Argued May 18, 1931. Decided June —, 1931)

Jesse I. Miller, Philip B. Perlman, and George E. Edelin for plaintiff; George E. Holmes, Jonathan C. Gibson (Olcott,

Holmes, Glass, Paul & Havens on brief), and Elmer B. Collins for defendants.

Before Groner, J. (Court of Appeals), and Wheat, C. J., and Adkins, J. (Supreme Court, D. C.)

MEMORANDUM OPINION OF JUSTICE GRONER—Filed June 6, 1931

GRONER, J.:

Chesapeake Beach Railway Company, which we shall call The Railway, operates a railroad from a point within the District of Columbia to Chesapeake Beach, on the western shore of Chesapeake Bay within the State of Maryland. In 1929, it applied to the Interstate Commerce Commission, under the provisions of Sec. 1, Par. 18, of the Interstate Commerce Act, as amended by the Transportation Act of 1920, Title 49 U. S. C. A., Sec. 1-(18), for a certificate of con- [fol. 62] venience and necessity authorizing the extension of its rail line by the establishment of ferry boats to operate across Chesapeake Bay between Chesapeake Beach and Trippe's Bay. Claiborne-Annapolis Ferry Co., which we shall call The Ferry Co., then and now operating a ferry across Chesapeake Bay between Claiborne and Annapolis, Maryland, intervened in opposition to the grant of the certificate. It denied that the establishment of the proposed ferry was necessary or in the public interest, and charged that the operation of an additional ferry would be detrimental to its service and subversive of its rights. There were the usual hearings before the Commission, and, on August 1, 1930, the certificate issued as prayed. See 166 I. C. C. 293.

This is a suit for injunction (36 Stat. 539). The bill prays that the Commission's certificate be set aside and annulled, and that the Railway Company be prevented from establishing the ferry-extension, on the ground that the record does not contain substantial evidence to support the finding of necessity and convenience, and also because the Commission is without authority under the Act to issue a certificate for the operation of a ferry between points wholly within the State of Maryland, and, lastly, because the proposed operation of the ferry is beyond the powers of The Railway.

We are met at the threshold with the claim on the part of the Commission that the Supreme Court of the District of Columbia is without jurisdiction to set aside the order complained of, because it is not a district court of the United States within the purview of the district court act (38 Stat. 220), and also because, by the provisions of that Act, in cases brought to set aside orders of the Commis- [fol. 63] sion, it is provided that the three-judge court shall include at least one circuit judge, and that a judge of the Court of Appeals of the District of Columbia is not such within the language of the Act.

We think there is no merit in the contention. Section 43 of Title 18, D. C. Code 1929, in relation to the jurisdiction and power of the Supreme Court of the District of Columbia, provides: "The said court shall possess the same powers and exercise the same jurisdiction as the district courts of the United States". And see Federal Trade Commission v. Klesner, 274 U. S. 145, 156, in which the Supreme Court said:

"The parallelism between the Supreme Court of the District and the Court of Appeals of the District, on the one hand, and the district courts of the United States and the circuit courts of appeals, on the other, in the consideration and disposition of cases involving what among the States would be regarded as within federal jurisdiction, is complete."

And see also the opinion of the Court of Appeals of the District of Columbia in Pitts v. Peak, decided May 4, 1931, — F. (2d) —, in which the "parallelism" is demonstrated and traced to its source.

It is next insisted that The Ferry Company may not institute this suit because the order of the Commission does not, it is claimed, invade any legal right which it enjoys, that is to say, that, though it be conceded the establishment of an additional ferry will result in financial loss to the presently established ferry, unless The Ferry Company is able to show that its legal rights will be abridged or impaired, it may not itself accomplish through injunctive relief, in a suit under the Commerce Act, the suppression of competition. Admittedly, The Ferry Company has no exclusive franchise to operate a ferry across Chesapeake Bay, and its right, therefore, to maintain the suit

is based wholly on the anticipated injury resulting to it [fol. 64] from the Commission's order, and we think this clearly is not enough. As far back as Commission v. Chicago, etc. R. R. Co., 218 U. S. 88, 111, the Supreme Court expressed doubt as to the propriety of permitting intervention in an action to set aside an order of the Commission requiring reduction of rates to certain localities by representatives of other localities whose competitive advantage would be affected by the reduction order, and the doubt thus expressed has since been resolved against the right—at least so far as the institution of an independent suit is concerned—in Sprunt & Son, Inc., et al. v. United States, 281 U. S. 249, which was a suit in which the Commission, through a readjustment of rates, had deprived an intervener of a competitive advantage enjoyed under existing rates. At page 254, the Supreme Court said:

"We are of opinion that appellants have no standing, in their own right, to make this attack. In so far as the order directs elimination of the rate differential previously existing, it worsened the economic position of the appellants. It deprived them of an advantage over other competitors of almost 3.5 cents per hundred pounds. The enjoyment of this advantage gave them a distinct interest in the proceeding before the Commission under Sec. 3 of the Interstate Commerce Act. For, their competitive advantage was threatened. Having this interest, they were entitled to intervene in that administrative proceeding. And if they did so, they became entitled under Sec. 212 of the Judicial Code to intervene, as of right, in any suit 'wherein is involved the validity' of the order entered by the Commission. But that interest alone did not give them the right to maintain an independent suit, to vacate and set aside the order. Such a suit can be brought by a shipper only where a right of his own is alleged to have been violated by the order."

See also Edward Hines, etc. v. U. S., 263 U. S. 143; and Penn. R. R. Co. v. U. S., 40 F. (2d) 921.

It is insisted on behalf of the Ferry Company, however, that the principle announced in the Sprunt case has no applicability to the point involved here because it is [fol. 65] claimed that here the Commission has exceeded its statutory powers, and that its order is void, and that

since the Ferry Company has been permitted to intervene because of threatened financial loss, and can show a financial interest, i. e., in the loss of business through competition, it has a legal right to maintain a suit for an injunction.

If it is true that the Commission is without power to make the order, it would follow necessarily, we think, that this court would have jurisdiction, at the suit of a proper party, to enjoin its enforcement, but we need not stop here to inquire whether The Ferry Co. is such a party since we are of opinion that the Commission had jurisdiction, and that the finding on which the order is based is supported by substantial evidence, and does not exceed the Commission's statutory powers. The Railway Co. had authority under its charter to conduct a railroad business, and the operation of a ferry in connection with or in the extension of its rail lines is an incident of that business, and this is recognized in the Transportation Act (Sec. 1, Par. 3). The order of the Commission finds, "that the present and future public convenience and necessity require the establishment by the Chesapeake Beach Railway Company of ferry service across Chesapeake Bay, in Calvert and Dorchester Counties, Md., as set forth in the application and said report." The report to which the order refers is in all respects similar to the order, and an inspection of the record, we think, discloses evidence on which to base this conclusion, and, in this view, we have no power to review the determination of the Commission, or to substitute our judgment for that of the Commission. U. S. v. New River Co., 265 U. S. 533. The Ferry Co., in the argument, construed the order as authorizing the Rail- [fol. 66] way to conduct a general ferry business separate and distinct from its railway business, and this, it says, is beyond the power of the Commission to do, but we do not think we need pass upon this question or determine in this proceeding whether the certificate of convenience issued by the Commission has that effect or not, nor do we think anything in the certificate requires us, at the instance of the plaintiff here alone, to pass upon the legality of an order of such a nature. It may well be that, if the Ferry Co. has a right to operate a legally established ferry across Chesapeake Bay, any infringement or encroachment upon its rights and patronage through the establishment of an-

other general ferry, that is, a ferry for the carriage of passengers and freight from one side of Chesapeake Bay to the other, would be a matter within the control and jurisdiction of the State of Maryland, and it may be true also that the provision in the Railway Company's charter authorizing it to "run and employ steamboats, or other vessels, to connect said railroad or railroads with other points by water communication" is not sufficiently inclusive to invest it with the privilege of operating a general ferry, or the establishment of a ferry at all except for the transportation of passengers and freight in direct connection with its rail line, but, as to these matters, we express no opinion. See, however, on the subject, Somerville v. Winbish, 7 Gratt. (Va.) 205; Chesapeake Ferry Co. v. Hampton Roads Transportation Co. (Va.) 133 S. E. 563; Fitch v. New Haven R. R., 30 Conn. 38; Harding v. Maverick, Fed. Cas. No. 9,316; The Nassau, 188 Fed. 46; Aikin v. Western R. Co., 20 N. Y. 370. See also 25 C. J. 1067 et seq., and 12 R. C. L. 176. Since the Commission's order, as we construe it, grants the privilege to The Railway to extend [fol. 67] its rail line by ferry from the present terminus on Chesapeake Bay to the other side of the Bay, an order which, by the express terms of the Act (Sec. 1, Par. 18, Transp. Act), the Commission had the authority to make upon a finding of facts which we agree sufficiently shows present or future public convenience and necessity, the further question whether The Railway may, without authority first obtained from the State of Maryland, do an intrastate ferry business, we think, need not now be considered or decided. Obviously it can neither do such business nor make application for a franchise, if one is required, until the certificate of the Commission is first had. The Railway having made its application and established its right to make the desired extension, The Ferry Co. may not, as we think, for any reason shown on the record, annul the certificate or avoid its effect, whatever that may be.

Injunction denied; bill dismissed with costs.

I concur. A. A. W., J. C. A.

[fol. 68] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

In Equity. No. 52254

CLAIBORNE-ANNAPOLIS FERRY COMPANY, Plaintiff,

v.

UNITED STATES OF AMERICA, CHESAPEAKE BEACH RAILWAY COMPANY, Interstate Commerce Commission, et al., Defendants

FINAL DECREE—Filed June 17, 1931

The above-entitled cause came on for final hearing on May 18, 1931, upon plaintiff's bill of complaint for a temporary and permanent injunction, the defendants United States and Interstate Commerce Commission's motions to dismiss, and the answers of all defendants, replications of plaintiff; and the court having heard and considered evidence adduced and the arguments and briefs of counsel for all parties, and having reached its conclusion for the reason set forth in its opinion, filed herein June 6, 1931, which is hereby referred to and made a part of this decree, that the relief prayed for in said bill of complaint should be denied;

It is therefore ordered, adjudged and decreed that the prayer of the plaintiff's bill of complaint be denied and said bill dismissed for want of equity; and that the defendants have and recover of the plaintiff their costs to be taxed by the Clerk.

Dated June 17, 1931.

Alfred A. Wheat, Jesse C. Adkins.

[fol. 69] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

PETITION FOR APPEAL—Filed June 17, 1931

The Claiborne-Annapolis Ferry Company, complainant, feeling itself aggrieved by the final order, or decree, of the Supreme Court of the District of Columbia, holding an equity court, dated the 17 day of June, 1931, which denied

the relief sought, and dismissed the bill, prays an appeal therefrom to the Supreme Court of the United States, for the reasons set forth in the assignment of errors filed herewith. It prays that its appeal be allowed and that citation be issued as provided by law, and that the transcript of the record, proceedings and documents upon which the said decree was based, duly authenticated, be sent to the Supreme Court of the United States.

Jesse I. Miller, Philip B. Perlman, George E. Edelin, Attorneys for Petitioner.

Service acknowledged.

Elmer B. Collins, Attorney for United States. Nelson Thomas, Attorney for Interstate Commerce Commission. Jonathan C. Gibson, Attorney for Chesapeake Beach Railway Company.

[fol. 70] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER GRANTING APPEAL—Filed June 17, 1931

The complainant having filed its petition for appeal herein, the same is hereby granted and the complainant is hereby allowed to appeal said cause, and

It is further orderd that said appeal be and the same is hereby granted to the Supreme Court of the United States upon the filing of undertaking by said complainant in the sum of One thousand Dollars ($1,000.00), with good and sufficient surety to be approved by this Court, conditioned upon the said complainant prosecuting its appeal to effect, and answering all costs if it fails to make its appeal good.

This 17 day of June, 1931.

Alfred A. Wheat, Chief Justice Supreme Court, D. C.
Jesse C. Adkins, Justice Supreme Court, D. C.

Service acknowledged.

Elmer B. Collins, Attorney for U. S. Jonathan C. Gibson, Attorney for Chesapeake Beach Railway Company. Nelson Thomas, Attorney for Interstate Commerce Commission.

[fol. 71] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ASSIGNMENT OF ERRORS—Filed June 17, 1931

Comes now the Claiborne-Annapolis Ferry Company, the plaintiff in the above entitled cause, and files the following assignment of errors upon which it will rely upon the prosecution of its appeal in the above entitled cause from the order and decree made by a Court of three Justices in this Honorable Court on the 17th day of June, 1931, and show that the Court erred in the following particulars, to wit:

1. In concluding that the record, reports, findings, orders and/or certificate of the Interstate Commerce Commission sought to be annulled and set aside herein disclose substantial, or any, evidence of any present and/or future public convenience and/or necessity for the extension of the railway line of the defendant, Chesapeake Beach Railway Company, by ferry from Chesapeake Beach, Maryland, on the western shore of Maryland, to a point on Trippe Bay, on the eastern shore of Maryland, and wholly within the State of Maryland.

2. In concluding that the record before the Interstate Commerce Commission discloses substantial or any evidence of any public convenience or necessity to be served [fol. 72] by the establishment and operation of a vehicular or general ferry between Chesapeake Beach, Maryland, and a point on Trippe Bay, Maryland.

3. In concluding that the present and/or future public convenience and/or necessity for the establishment and operation of a general or vehicular ferry from Chesapeake Beach, Maryland, to a point on Trippe Bay, Maryland, if any such public convenience or necessity exists, gave to the said Interstate Commerce Commission jurisdiction or authority, under Section 1 (18) of the Interstate Commerce Act, as amended, or under any provision of law, to authorize the establishment and operation by the Chesapeake Beach Railway Company of an extension of its railway line by ferry between Chesapeake Beach, Maryland, and the point on Trippe Bay, Maryland, as aforesaid.

4. In concluding that said Section 1 (18) of the Interstate Commerce Act, as amended, is not beyond the consti-

tutional powers of the Congress of the United States to enact, if it be construed to authorize the Interstate Commerce Commission to authorize the establishment and/or operation of a vehicular or a general ferry between points wholly within the State of Maryland.

5. In concluding and decreeing that there was substantial evidence and adequate findings before the Interstate Commerce Commission authorizing or justifying the said Commission in the issuance of the certificate of public convenience and necessity sought to be set aside herein.

6. In not vacating and annulling the said order and certificate of the said Interstate Commerce Commission for the reason that said order and certificate are arbitrary and unlawful, and that the same are based upon no substantial evidence which would authorize the said Commission to issue said order and certificate and in any event are [fol. 73] beyond the powers conferred by the Congress upon the Commission.

7. In not vacating and annulling the said order and certificate of the Interstate Commerce Commission for the reason that the same are arbitrary and unlawful in that the only finding upon which the said Interstate Commerce Commission might authorize the operation of a ferry by the defendant, Chesapeake Beach Railway Company is one that the present and/or future public convenience and/or necessity require or will require the establishment and operation of such ferry for use by or in connection with the railway line of the said Chesapeake Beach Railway Company, and the proceedings before said Interstate Commerce Commission wholly fail to show any present and/or future public convenience or necessity requiring the operation of a ferry for use by or in connection with the railway line of the defendant, Chesapeake Beach Railway Company.

8. In holding and decreeing that the said order and certificate of the said Interstate Commerce Commission are lawful and valid.

9. In holding and decreeing that complainant's right to maintain this action is based wholly on the anticipated injury resulting to it from the Commission's order and certificate, and in not concluding and decreeing that said injury will result from the void and unlawful order and certificate of said Commission.

10. In holding and decreeing that complainant has not sufficient legal interest in the subject matter to maintain [fol. 74] this proceeding.

11. In not concluding and decreeing that complainant may maintain this action if the said order and certificate of the Interstate Commerce Commission are illegal and void and will, if not set aside and annulled, result in irreparable damage to complainant.

12. In holding and concluding that it had no power to review the findings and determination of the Interstate Commerce Commission where said findings and determination were based upon no substantial evidence.

13. In holding and concluding that the Commission's order and certificate grant to the Chesapeake Beach Railway Company only the privilege of extending its rail line by ferry from Chesapeake Beach, on the western shore of Maryland, to a point on the eastern shore of Maryland, and in failing to conclude that said order and certificate further unlawfully pretend to grant to the Chesapeake Beach Railway Company the privilege of establishing and operating a vehicular or general ferry between said points and wholly unconnected with said railroad or use by it for railroad purposes.

14. In failing to conclude that it is beyond the power of the Commission to authorize the Chesapeake Beach Railway Company to establish or operate a general or vehicular ferry business separate and distinct from its railway business, between points wholly within the State of Maryland.

15. In refusing the injunction prayed for and in dismissing complainant's bill.

[fol. 75] Wherefore petitioner prays that said order and decree of June 17th, 1931, be set aside and that it be granted relief as prayed in its original petition.

Jesse I. Miller, Philip B. Perlman, George E. Edelin, Attorneys for Petitioner.

[fol. 76] MEMORANDUM

June 17, 1931.—Bond ($1,000) on appeal approved and filed.

[fol. 77] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ORDER ENLARGING TIME WITHIN WHICH TO DOCKET THE CASE AND FILE THE RECORD THEREOF—Filed June 17, 1931

It appearing that further time is required to reduce to narrative statement the testimony and exhibits contained in the voluminous transcript of the record of the evidence and proceedings before the Interstate Commerce Commission, now a part of the record before this Court, and to assemble, prepare and certify the transcript of the record of this Court on the Appeal, and for other good cause shown;

It is ordered that the time in which the Claiborne-Annapolis Ferry Company, complainant, shall furnish, serve and file in the office of the Clerk of the Supreme Court of the District of Columbia its narrative statement of the evidence offered before the Supreme Court of the District of Columbia and its designation for the record of additional appeal papers which have been filed, and in which to cause the transcript of the record to be completed, and in which [fol. 78] to docket the case and file the record thereof with the Clerk of the Supreme Court of the United States, be, and it is hereby, enlarged to and including August 17, 1931.

Alfred A. Wheat, Chief Justice Supreme Court, D. C. Jesse C. Adkins, Justice Supreme Court, D. C.

Service acknowledged.

Elmer B. Collins, Attorney for United States. Nelson Thomas, Attorney for Interstate Commerce Commission. Jonathan C. Gibson, Attorney for Chesapeake Beach Railway Company.

[fols. 79 & 80] Citation, in usual form, showing service on Elmer B. Collins et al., filed June 17, 1931, omitted in printing.

[fol. 81] IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ENLARGING TIME WITHIN WHICH TO DOCKET CASE AND FILE RECORD THEREOF IN THE SUPREME COURT OF THE UNITED STATES—Filed August 5, 1931

It appearing that in a proceeding in the Supreme Court

of the District of Columbia described therein as Claiborne-Annapolis Ferry Company, Plaintiff, vs. United States of America, Chesapeake Beach Railway Company, Interstate Commerce Commission, et al., Defendants, in equity No. 52,254, a three Judge Court has heretofore denied plaintiff's injunction and dismissed its bill and it further appearing that plaintiff has prayed an appeal to the Supreme Court of the United States and that said appeal has been granted by the said Supreme Court of the District of Columbia and it appearing that further time is required to reduce to narrative statement the testimony and exhibits contained in the voluminous transcript of the record of the evidence and proceedings before the Interstate Commerce Commission, now a part of the record before the Supreme Court of the District of Columbia, and to assemble, prepare and certify the transcript of the record of said Court on said appeal, and for other good cause shown; [fol. 82] It is ordered that the time in which the Claiborne-Annapolis Ferry Company, plaintiff below, shall furnish, serve and file in the office of the Clerk of the Supreme Court of the District of Columbia its narrative statement of the evidence offered before the Supreme Court of the District of Columbia and its designation for the record of additional appeal papers which have been filed, and in which to cause the transcript of the record to be completed, and in which to docket the case and file the record thereof with the Clerk of the Supreme Court of the United States, be, and it is hereby, enlarged to and including October 17, 1931.

(Signed) Pierce Butler, Justice Supreme Court of the United States.

Consent.

Elmer B. Collins, Attorney for United States. J. Stanley Payne, Attorney for Interstate Commerce Commission. Jonathan C. Gibson, A. M., Attorney for Chesapeake Beach Railway Company. Jesse I. Miller, George E. Edelin, Attorneys for Claiborne-Annapolis Ferry Company.

A true copy. Test:

Charles Elmore Cropley, Clerk of the Supreme Court of the United States, by Hugh W. Barr, Deputy. (Seal.)

[fol. 83] MEMORANDUM

September 22, 1931.—Narrative abstract of evidence signed in duplicate.

[fol. 84] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

DESIGNATION OF RECORD—Filed September 2, 1931

The Clerk of the Court is hereby requested to prepare and certify the transcript of the record in the above entitled cause for the use of the Supreme Court of the United States by including therein the following:

1. December 24, 1930—Original bill of complaint.
2. February 2, 1931—Answer of Chesapeake Beach Railway Company.
3. February 2, 1931—Motion to dismiss and answer of Interstate Commerce Commission.
4. February 6, 1931—Motion to make United States party defendant.
5. February 13, 1931—Order making United States party defendant.
6. February 20, 1931—Answer of United States.
7. March 14, 1931—Replication to answer of Interstate Commerce Commission.
8. March 14, 1931—Replication to answer of United States.
9. March 14, 1931—Replication to answer of Chesapeake Beach Railway Company.

[fol. 85] 10. April 17, 1931—Motion to set case for hearing before court of three Judges.

11. April 22, 1931—Order for hearing before court of three Judges.

12. June 6, 1931—Memorandum opinion of Mr. Justice Groner.

13. June 17, 1931—Final decree.

14. June 17, 1931—Petition for appeal.

15. June 17, 1931—Assignment of errors.

16. June 17, 1931—Memorandum of undertaking on appeal.

17. June 17, 1931—Order enlarging time for docketing appeal.

18. June 17, 1931—Citation on appeal, with service thereon.

19. August 5, 1931—Certified copy of order of Mr. Justice Butler of the Supreme Court of the United States enlarging time for docketing appeal.

Narrative of evidence adduced before Interstate Commerce Commission and exhibits attached thereto and order approving the same, together with service thereon.

All other exhibits introduced in evidence.

This designation with service thereon.

Jesse I. Miller, Philip B. Perlman, George E. Edelin,
Attorneys for Plaintiff, 1518 K St. N. W.

Service of copy acknowledged.

Jonathan C. Gibson, Attorney for Chesapeake Beach Railway Company. Daniel W. Knowlton, Attorney for Interstate Commerce Commission. Thomas D. Thacher, Attorney for United States.

[fol. 86] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

[Title omitted]

ADDITIONAL DESIGNATION OF RECORD—Filed October 7, 1931

The Court will please include in the transcript of record on appeal:

15½.—Order granting appeal. This additional designation.

Philip B. Perlman, Jesse I. Miller, George E. Edelin,
Attorneys for Plaintiff.

[fol. 87] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 88] SUPREME COURT OF DISTRICT OF COLUMBIA

[Title omitted]

BEFORE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 8013

In the Matter of Application of CHESAPEAKE BEACH RAILWAY COMPANY

Narrative Abstract of Evidence

Appearance of counsel:
George E. Holmes and Harry C. Ames for applicant.
Philip B. Perlman for intervenor.

[fol. 89] J. M. RECTOR, a witness on behalf of the applicant, testified as follows:

Direct examination:

My name is John M. Rector, Washington, D. C. I am Secretary-Treasurer of the Chesapeake Beach Railway Company. I have been connected with the Chesapeake Beach Railway Company for 18 years and am familiar with all the tariffs of the Chesapeake Beach Railway Company, both in respect of freight and passenger traffic. I identify this document headed "Charter of the Washington & Chesapeake Beach Railway Company" as the charter of the Washington & Chesapeake Beach Railway Company, Incorporated in September, 1891. (This appears in this Narrative as Exhibit No. 1.) I also identify the certified copy of the Charter of the Chesapeake Beach Railway Company and also a certified copy of the authority to increase the capitalization of that company. (These appear in this Narrative jointly as Exhibit 2.) I also identify a deed of trust issued by the Washington & Chesapeake Beach Railway Company to the American Security & Trust Company. It is dated the 5th day of December, 1893. (This appears as Exhibit No. 3.) I also identify a deed from the Washington, Potomac & Chesapeake Railway Company, to Henry W. Watson, conveying all right, title and interest in right of way, and certain land within the District of Columbia. (This appears as Exhibit No.

4.) I also identify a deed from Henry W. Watson to the Chesapeake Beach Railway Company conveying all rights, title and interest in the right of way and land as per the previous exhibit. (This appears as Exhibit No. 5.)

Mr. Ames: The object in tendering these exhibits, Mr. Examiner, is to show the grant of the original charter to the Washington & Chesapeake Beach Railway Company, the passage of title from that company to the American Security & Trust Company under deed of trust, and the passage of the property from the American Security & Trust Company under deed of trust and the passage of [fol. 90] the property from the American Security & Trust Company to the present owner. The last two deeds are designed to show the transfer of property in the District of Columbia consisting of 2.4 miles of right of way, from the original owners to the present company.

Those five exhibits make a complete chain of title from the original company to the present company. This title covers the property from Chesapeake Junction, D. C., to Chesapeake Beach, Maryland.

By Mr. Ames:

Q. Mr. Rector, has the Interstate Commerce Commission issued a report valuing the property of the Chesapeake Beach Railway Company?

A. It has.

Q. Have you prepared an exhibit containing excerpts of two paragraphs from that report?

A. I have not, but such an exhibit has been prepared.

Mr. Ames: Mr. Examiner, I desire to introduce as Applicant's Exhibit No. 6 a copy of two paragraphs of the Commission's decision in 103 I. C. C. 67.

Examiner Molster: Why not offer the whole decision?

Mr. Ames: I will do that if you desire. These two paragraphs are particularly appropriate to this case and I thought you would have them in a convenient form for your own reference.

Examiner Molster: And you will furnish copies to the opposing counsel?

Mr. Ames: I will right now.

Examiner Molster: Is there any objection, Mr. Perlman?

Mr. Perlman: No, sir.

Examiner Molster: The same will be received and marked Applicant's Exhibit No. 6.

(This appears as Exhibit No. 6.)

I am familiar with the tariff publications of the Chesapeake Beach Railway Company. The Chesapeake Beach Railway participates in joint rates on freight with interstate carriers and has published a tariff containing those charges.

[fol. 91] Mr. Ames: I desire to introduce at this time a copy of the Chesapeake Beach Railway Company's Tariff I. C. C. OC-48 and ask that it be received as Applicant's Exhibit No. 7.

Examiner Molster: It will be received and so marked.

(This appears as Exhibit No. 7.)

The Chesapeake Beach Railway publishes passenger rates from Chesapeake Junction, D. C., to destinations in Maryland, including Chesapeake Beach.

Mr. Ames: Mr. Examiner, I aks to introduce at this time a copy of the Chesapeake Beach Railway Company's local passenger tariff I. C. C. No. 107 and ask that it be marked Applicant's Exhibit No. 8.

Examiner Molster: This document will be received in evidence and marked Exhibit No. 8.

(This appears as Exhibit No. 8.)

Eugene Fox, a witness on behalf of applicant testified as follows:

Direct examination:

My name is Eugene Fox, Washington, D. C. I am Vice-President of the Chesapeake Beach Railway Company. My railroad experience extends over 25 years in different capacities from Assistant General Freight Agent to Vice-President with the Rook Island, the El Paso & Southwestern, the Nacozari Railroad of Mexico, the Southern Pacific Company and the Western Pacific, and the Sacramento Northern, and the Tidewater Southern. I am fa-

miliar with the operation of the Chesapeake Beach Railway Company and with the conditions surrounding the application now before the Commission. I have made a study of the situation and have prepared some exhibits going to the propriety of this application. The point of connection between the Chesapeake Beach Railway Company and the Baltimore & Ohio Railroad Company is at Chesapeake Junction, D. C., and the point of connection between the Chesapeake Beach Railway and the Pennsylvania Railroad is at Pennsylvania Junction, in Calvert County, Maryland. The Chesapeake Beach Railway Company participates in [fol. 92] the joint handling of freight with those two railroads and is a party to joint rates with those two railroads. The Chesapeake Beach Railway Company is a party to general agency tariffs.

Q. In connection with your application, Mr. Fox, did you submit to the Commission a reply to their questionnaire?

A. I did.

Q. I want you to tell, in your own way, Mr. Fox, the circumstances surrounding this application.

A. The proposed ferry is intended primarily for the transportation of passenger and motor vehicles, and package freight.

As the questionnaire is not designed to elicit detailed information peculiarly pertinent to the present application, the following preliminary statement of the essential facts relied upon to support the application is submitted.

Under applicant's charter, it may, among other things, engage in steamboat operation in connection with its rail lines. After a careful survey of the situation it has been determined that the addition of a ferry service will be a profitable enterprise in which the railway should engage and at the same time provide a service to the public which is a necessity and convenience. The supporting data will appear in its proper place in the return to the questionnaire.

In order to finance this project the railroad company asks authority to issue its first mortgage bonds in the sum of $750,000.

Examiner Molster: I would like to inquire right there whether that statement in the return to the questionnaire

is presumed to be an application under Section 20a for authority to issue securities?

Mr. Ames: It is not.

The Witness: The railway derives most of its revenue from passenger traffic. With the advent of the automobile and improved highways, the revenue from this source has for the past five years shown a steady decline, but this has to some extent been equalized by the increase in freight traffic due to the increasing population, and business activ-
[fol. 93] ities of the towns and communities served, and applicant believes that the earnings of both freight and passenger traffic can be materially increased by the extension of a ferry service, the estimated net revenues from which will amount to 5 times the interest on the bond issue.

The service contemplates the purchase or construction of two automobile and passenger ferry boats, of a type designed to carry 95 automobiles on the main deck, with a capacity for 1,800 passengers on the saloon deck, at an estimated cost of $350,000 each.

The distance between ferry terminals is approximately 16 land miles. It is intended to cover this distance in one hour, thus reducing the present time for vehicular ferry service across Chesapeake Bay, at any point, by at least one half hour.

Examiner Molster: I think I will rule, Mr. Ames, in the absence of objection, that the return to the questionnaire will be considered in evidence.

Mr. Perlman: Mr. Examiner, the intervener has no objection to the return to the questionnaire being admitted in evidence.

Mr. Ames: The applicant has no objection. I think it is only fair in that connection for our side to say that this questionnaire is primarily designed to cover rail transportation and for that reason we found it difficult to fit the answers concerning this ferry operation to these questions. With that idea in mind we prepared this preliminary statement, which covers the situation generally.

The return to the questionnaire filed in the docket was received in evidence and appears as Exhibit No. 9 to this statement.

By Mr. Ames:

Q. Will you turn to the exhibit opposite sheet 34 of your questionnaire?

A. Yes.

Q. What does that exhibit show in respect of the net railway operating income of the Chesapeake Beach Railway from 1924 to 1929?

A. It shows a deficit in net railway operating income for [fol. 94] the years 1924 to 1928 and a net earning of $7,439.59 for the year 1929.

Q. To your knowledge is that the first time the Chesapeake Beach Railway Company has ever been out of red?

A. As far back as I can find any figures, yes, sir.

Q. To what do you attribute that change in condition?

A. To economies that we have been able to effect since the present management took hold of the property in 1929, and increased freight traffic but, primarily, to the economies that we were able to effect.

[fol. 95] Those economies are the result of the present management of the railroad and is the same management which proposes this new ferry.

Examiner Molster: In that connection, Mr. Fox, it appears to the Examiner that the principal reduction in operating expenses has been in maintenance of way and structures and maintenance of equipment. Are those the economies to which you have reference?

A. The economies were not due to deferred maintenance, Mr. Examiner. The property has been maintained at a high state of maintenance even in connection with the economies that we were able to effect. Based upon my twenty years' experience in railroading, I would say that this property has been overmaintained. The exhibit opposite page 36 is designed to show the proposed or estimated operating revenues for a period of five years for the proposed ferry. Those estimates are based on figures shown by the State Highway Commission's traffic map which is opposite page 30 of the questionnaire.

Examiner Molster: I should like to ask there whether account has been taken in these estimates of seasonal variations in traffic?

The Witness: Yes, sir, it has. I would like to explain this traffic map. I think you have a legend on the map that

the data from which this map was drawn was based on a twelve-hour traffic counts taken on an average, one day per month, by the state roads Commission.

The various widths of the line show the average daily number of vehicles recorded at each traffic station. In order to get a basis for making our estimates we took the traffic shown at Station T-1 on this map on the Eastern Shore, which happens to be the terminal point of the Claiborne-Annapolis Ferry, and inasmuch as there is no town within 15 miles of this point, that is to say, any town of any moment or business, we assumed that all of the traffic shown on that highway would be intended for ferry service going to or from the ferry or to meet the bus lines which operate at either terminal, and that line shows an average of 780 [fol. 96] cars per day from October 1, 1928, to September 30, 1929.

We further assumed that at lease 32 per cent of that traffic or nearly 33⅓ per cent shown at station T-1 would have origin or destination at points south of the Choptank River in the counties of Wicomico, Worcester, Dorchester, and Somerset of Maryland and two counties in Virginia, Accomac and Northampton. Those counties are the ones which under normal conditions would probably be served by the new ferry, four in Maryland and two in Virginia.

Each of those four counties have the largest towns on the eastern shore, that is, the more important towns from the standpoint of agricultural production, together with Ocean City, which is the only ocean resort in the state of Maryland.

We therefore assumed that 32 per cent of that traffic shown on that highway was a fair basis from which to start to make an estimate of the traffic that would be handled by our proposed ferry, by reason of the fact that from Salisbury and Cambridge to Washington, via the proposed ferry, the distance would be shortened very considerably.

Examiner Molster: May I ask how you happen to hit upon that figure rather than upon some other?

The Witness: It is a pretty difficult matter to find out how many cars are handled in that territory without starting at some base of that sort. We know the vast amount of traffic to and from the counties south of the Choptank River, and the distance between Washington and the points

intended to be served by this ferry would be so greatly reduced that it is a fair assumption that the traffic from Washington and from Baltimore, to some extent, the distance being shorter from these two points, would use the shorter ferry. The figure I have taken of the total number of cars clocked at that particular point is the official figure of the State of Maryland Highway Department. I have estimated that 32 per cent of the cars so clocked would have origin or destination south of the Choptank River. I [fol. 97] have also made another calculation as to the potential traffic to be handled over the proposed ferry, which I think will explain the question the Examiner asked: We have taken the period May 1 to October 15, as the peak period in which most of the traffic moves, being in the summer time or the summer time and the holidays being in that, and divided the two periods of the year into six brackets.

The capacity of these boats will be 95 automobiles, but taking an average of all sized cars, which would include trucks, and things of that kind, we assume there will be a capacity of 90 cars, to be safe.

There are 27 Sundays and holidays in the period just mentioned, May 1 to October 15, and during that period, we expect to make 12 trips per day, that is, 6 round trips.

The capacity for that many days or during that period would be 29,160 cars or 75 per cent of the capacity of the boat.

There are 24 Saturdays in that period——

Q. (Interposing.) Just a moment. You mean the 100 per cent capacity for those 24 Sundays and holidays would be 29,160 and that 75 per cent would be 21,770?

A. Yes, that is correct. I would like to correct that.

Q. Go ahead to the Saturdays.

A. The Saturdays, there would be 288 trips during that period, and the 100 per cent capacity of the boats would be 25,920 cars. We have assumed we would operate at 50 per cent of our capacity during that time, which would be 12,960 cars.

And 117 other days at 12 trips per day would be 1,404 trips, the capacity being 126,300 cars. We have assumed we

would operate those trips at 25 per cent of the capacity of the boats which would be 31,590 cars.

From October 15 to May 1 there would be 28 Sundays on which we would make 8 trips per day. 216 trips at 25 per cent of capacity would be 5,040 cars.

Q. Isn't that 25 cars per trip rather than 25 per cent capacity?

[fol. 98] A. That is quite right. I am in error there. 25 cars per trip. Instead of using a percentage on that bracket we have taken the exact number of 25 cars. 169 days, 8 trips per day, 1,352 trips. We have assumed we would haul 15 cars each trip of 20,380 cars, which makes a total of 91,740 cars, which is slightly higher than the estimate that we have shown in the estimated earnings. However, it just happens to come out that way. I made this second calculation without reference to my first calculation and found that the number of cars was only a difference of 39 between the two calculations. This is a proposed operation and any estimates I made had to be based upon my best judgment, and from the data that was available to us from authentic sources.

Q. On that same exhibit I notice that in the second year you have indicated the estimated cars handled per year as 100,375. What do you base that increase on?

A. In looking up the figures of the traffic statistics furnished by the State Highway System we find that during the period 1926 to 1929, inclusive, up to September 30, that this same territory showed an increase in the movement of cars over the state highways—I am speaking of the Eastern Shore now only—of 57 per cent, and we thought it was fair to use only 10 per cent of that in carrying out our calculations for the balance of a 5 year period.

Q. You used 10 per cent, notwithstanding you found the normal increase of vehicular traffic was 57 per cent.

A. In the past four years it was 57 per cent in that territory.

Q. You have on the exhibit opposite page 38 an item of $103,567 for operating expenses. How did you arrive at that figure?

A. That figure was arrived at by the engineer. He will be able to give the detail for that.

By Mr. Ames:

Q. I would like to revert for a minute to this exhibit opposite page 36, the one you were discussing then. I want you to tell the Examiner how you arrived at that estimate of [fol. 99] passenger traffic, 182,500.

A. Assuming we would handle 250 cars per day, average, and the further assumption that each car would contain two pay passengers, together with the prospective business that might be handled in connection with bus lines or in connection with our railroad, which would bring the passengers to and from the ferry, we arrived at that figure. We have increased it from year to year using the same 10 per cent figure.

Q. How did you arrive at your average cost per car to get your estimated yearly vehicle revenue?

A. We took the tariff on file with the Public Service Commission of Maryland by the Claiborne-Annapolis Ferry and found that the range of charges or rates of fare were from two and one-half dollars for a small car, 110 inch wheel base or less, to $12 for a loaded truck, which was the highest rate. So we took $3 as an average charge for this estimate, feeling that that would be fair; that that would be within that range of prices.

Examiner Molster: This is not intended to indicate that you intend to handle all automobiles at the same rates?

The Witness: Not at all. This is an estimate on which to base our estimate, which we feel is fair.

Examiner Molster: That would indicate a large preponderance of passenger automobiles, would it not? The average arrived at?

The Witness: Yes, I should say it would. More passenger cars than trucks.

By Mr. Ames:

A. Mr. Fox, will this proposed ferry be equipped to handle passengers from Chesapeake Junction to the Eastern Shore of Maryland?

A. Yes, sir. We propose to establish a station at the eastern terminus of the ferry, possibly the town of Hudson, there being such a village at the ferry landing or close to it. As a matter of fact, right at the junction of the property at which the ferry will land, and the State

[fol. 100] Highway, here is a town called Hudson and a post office. I believe the name of the post office is Thomas. It will be our purpose to handle or to sell tickets from Chesapeake Junction, D. C. to Hudson, Maryland, which will be the eastern terminus of our ferry.

Q. Those will be through passenger tickets?

A. Yes, sir.

Q. Operating over your line to Chesapeake Beach and the ferry line beyond?

A. Yes, sir.

Q. Do you now hold yourselves out in your tariffs to carry passengers from Chesapeake Junction, D. C. to Chesapeake Beach, Maryland?

A. Yes, sir. Our regular trains are scheduled to and from Chesapeake Junction to Chesapeake Beach, the eastern terminus of the railroad. This ferry will be equipped to transport loaded passenger buses across the bay. If a passenger bus route were to be established from Washington, D. C. to Ocean City, Maryland, this ferry would be capable of handling that bus across the bay, all sorts of vehicular traffic.

Q. Could that transfer be made without unloading the passengers?

A. Yes, sir.

Q. Mr. Fox, do you know whether or not any development work is now taking place at Chesapeake Beach with a view of affording an amusement park?

A. Yes, sir.

Q. Would this ferry be in a position to handle passenger traffic from Cambridge, Maryland, to this amusement park?

A. Yes, from any point on the eastern shore to this amusement park.

Q. Would this ferry be equipped to handle merchandise, package freight, from any destination in Official Territory to Maryland destinations?

A. It is our purpose to handle package freight on the [fol. 101] ferry from any point in C. F. A. or Trunk Line territory to Hudson station, where we will have a freight station in connection with our mole.

Q. Will you please explain Sub-Exhibit No. 12 of Exhibit 9?

A. This exhibit is designed to show the estimated net income from the combined railway and ferry service for a period of five years.

We have shown that the railroad earned in 1929 $7,439.59, and assuming that that would continue at that ratio up to 1931 when the ferry would be in operation and in addition to the present revenue would derive the revenue which will be produced by the extension of the ferry service, it is fair to assume the railroad should show a net of $312,000 for that year which would be the first year of the ferry operation, together with $117,433, shown as net revenue from the ferry operation, would give the railroad a total net income of $148,633.

That includes the operation of the ferry. That is all that I have to say on that exhibit.

By Mr. Ames:

Q. Mr. Fox, are there any other exhibits in that questionnaire which you desire to explain, for example Sub-Exhibit No. 11, opposite page 44, briefly stating recapitulation of your railway operation, 1931 to 1935, inclusive?

A. Yes, sir. I might explain that 1931 is used there because of the fact that we expect this ferry to be in operation in 1931. It takes a year to build these boats. Therefore the estimates are based on 1931. That exhibit is designed to show the estimated earnings of the railroad in 1931. That does not include the ferry.

Mr. Ames: In order to make this a little shorter, I might say this questionnaire includes the estimate for the railway company from 1931 to 1935, estimates for the ferry company during that period and the combined estimate for the railway and the ferry. Those are all included in this questionnaire.

Examiner Molster: Mr. Fox, this sub-exhibit No. 11 indicates increases from year to year and increases over the [fol. 102] amounts shown in Exhibit No. 6 in freight and passenger revenues. Is that based, in part, on the assumption of increased business to be derived from operation of the ferry?

The Witness: I think I stated that the net earnings for 1929 of $7,439.59 were extended at the same ratio to 1931.

Examiner Molster: What I intended to develop was whether you expected increased traffic on the railroad as a result of the operation of the ferry.

The Witness: Yes, we do.

By Mr. Ames:

Q. In other words, you will not only handle vehicular traffic but you will handle passenger traffic from Washington, D. C.

A. Yes. The increase to the railroad will come from passenger traffic using the ferry and the railroad.

Examiner Molster: And also freight traffic?

The Witness: And package freight traffic.

By Mr. Ames:

Q. Do you expect to develop or create any new traffic by the operation of this ferry?

A. Yes. We think there will be a great deal of new traffic developed by the opening of this new traffic route between the western and the eastern shore by reason of its shorter route between the main towns south — Choptank and Washington, and points west and south of Washington on the western shore, and that there is a vast amount of tourist traffic, tourist automobiles, that comes to Washington each year, and our investigation developed the fact that a great many of these tourists could be induced to visit the eastern shore and use our ferry that do not use it now.

I mean to say that they do not now go to the eastern shore by reason of its isolation and the lack of transportation facilities or adequate transportation facilities. The shortness of the route would be a big factor in getting that traffic. Also it will produce a new route in the shape of a circle tour. Tourists may go over one way and come back the other, or, when they are expecting to go east through New [fol. 103] Jersey they can go that way and visit points south of the Choptank in eastern Maryland, Ocean City, and points on the lower peninsula in the Accomac section, and the fact that Ocean City is really the nearest ocean resort in the State of Maryland, and the only one, will cause a great many people to use this ferry because they can get to Ocean City and back to Washington with a reasonable length of time at the Ocean resort in the same day, the route shortening the present distance by 24 miles in each direction.

Examiner Molster: Have you thought to specify what the attraction will be for tourist traffic besides Ocean City?

The Witness: Yes, sir. The eastern shore is very replete with historical lore. It is well advertised. It is becoming

well advertised and we feel that with the advertising that we will give it and the service across the bay at that point, it will induce a great many people to go over there in machines and on bus lines and visit it that do not use it now and do not get over there on that account. We expect a great deal of traffic from the eastern shore to the western shore. This new seaside park we have in course of construction at Chesapeake Beach will furnish another source of traffic for the ferry from the eastern shore.

Examiner Molster: Is that part being developed by the railroad company or affiliated interests?

The Witness: It is being developed by the Chesapeake Beach Hotel Company. There is no corporate connection between the railroad and the Hotel Company. I might add that we feel that there is sufficient attraction the the eastern shore opened up by more advantageous traffic channels such as this ferry will provide to greatly increase the traffic and visitors to that shore. It is a highly attractive country and from past history it has not been very greatly exploited along those lines. The Chesapeake Beach Railway Company is an interstate common carrier by railroad and is subject to the Interstate Commerce Act. It files annual reports [fol. 104] with the Interstate Commerce Commission and has been valued by the Interstate Commerce Commission.

Q. Has this railroad had difficulty since its history in earning any profit whatever on its investment?

A. The figures I have go back to 1924 and I understand it never has been a paying investment. I think I stated in my preliminary statement that it is felt that by the addition of this ferry service it will enable the railroad to be self-sustaining and to make a return or, in other words, to increase the net after operating charges. Based upon my 20 years' experience as an operating railroad man, I think that the operation of this ferry route as an adjunct to this railroad will help to rehabilitate the railroad. I think it will put the railroad in a position to earn its way, which it never has done before.

Cross-examination.

By Mr. Perlman:

Q. How long have you been with the Chesapeake Beach Railway?

A. Since June, 1929. I believe that the railway company has been overmaintained in the last five years.

Q. And the fact that it has been overmaintained accounts for the reduction which I assume you made in the maintenance and operating expenses in the last year?

A. Not altogether in maintenance, if I understand you correctly.

Q. There were two items given in this statement, maintenance of way and structures and maintenance of equipment. Those items show a decrease from 1928 to 1929, the first one $38,000, roughly, to $25,000, and $27,000 to $19,000?

A. Yes, sir.

Q. They are the major items in which the reductions were made during the past year?

A. Yes, sir.

Q. Mr. Fox, the net railway operating income last year was $7,439.59. That is the operating income. Do I under-
[fol. 105] stand the railway showed a loss on the year's operating taking into consideration its fixed charges?

A. A very material loss. This statement does not deal with the funded debt. That is, that statement simply shows that the railroad had $7,439.59 left after paying its actual operating expenses for the year 1929 and has nothing to do with its funded debt or its interest on obligations or anything of that sort.

Q. What was the loss in 1929?

A. I could not answer that but we have a witness here who will be able to answer that. It is on file with the Interstate Commerce Commission.

Mr. Ames: We will have a witness who can give the underlying data for the exhibit.

By Mr. Perlman:

Q. The operation that you propose from Chesapeake Beach in Calvert County to a point on Trippe's Bay in Dorchester County, I understand that service will be maintained by two boats which you testified will cost approximately $350,000. You also testified those boats will have a carrying capacity of 95 motor vehicles and 1,800 passengers. I would like to know where you got your estimates of the cost on those boats?

A. You mean the name of the firm which gave us the estimates on the boats.

Q. I do not want any trade secrets.

A. Don't you think that possibly would be a trade secret?

Q. I would like to know whether you got more than one estimate. What investigation did you make to ascertain what the cost of such a boat would be?

A. We investigated it through such channels as the Southern Pacific Railway, which operates many boats on San Francisco Bay—the cost of those boats. Also through —I can name you several boat building companies, if you like, among them the one who built the John M. Dennis, which you are operating,

[fol. 106] Q. Among them the one that built the John M. Dennis for the Claiborne-Annapolis, and which it is now operating?

A. Yes. I am speaking of "You" as a representative of the Claiborne-Annapolis Ferry.

Q. You concluded from those estimates that you could get two such boats for $350,000?

A. We think so. That is an estimate. This is each.

Q. $350,000?

A. Yes. We priced the John M. Dennis and we were told it was around $318,000. However, that was not a determining factor in making our estimate of $350,000.

Q. The estimates that you made as to the business that you expect to develop in this ferry service you have set out here—I call your attention to sub-exhibit No. 7, and you give the figure of 91,215 cars which you expect to handle the first year. May I ask you to explain to us again where you got that figure? How you made that estimate?

A. We took the figures shown by the state highway traffic map or table. To be perfectly exact, it is the traffic map of Maryland showing the distribution of traffic over state highways' systems for October 1, 1928 to September 30, 1929.

We found by scaling that, that at Station T-1 which represents Claiborne, there were 780 cars per day on that road. We felt that it was fair to assume that at least one-third of those cars would have origin and destination south of the Choptank River. That conclusion was reached after a survey of the machines on the highways at Crisfield, Pocomoke, Ocean City, Cambridge, Salisbury, from the charts of the State Highway Commission.

Q. You took a percentage of the motor vehicles that you found at Claiborne?

A. Yes, sir.

Q. What information or what facts have you from which [fol. 107] you could make an assumption that the motor vehicles counted at Claiborne have any relation to the traffic across Chesapeake Bay from Chesapeake Beach to a point on Trippe's Bay in Dorchester County?

A. We felt in the first premise that one-third of the traffic would have origin or destination south of the Choptank River.

Q. Why do you say one-third? Why not one-tenth or one-half?

A. We felt that one-third would be a very reasonable estimate.

Q. You just picked that percentage out of the air, didn't you?

A. Not necessarily, no.

Q. Where did you get it?

A. Most of the business to and from those points south of the Choptank River now goes over the Claiborne Ferry and by reason of the shorter route through Cambridge and mileage, the distance on the ferry, we feel that a good many of those cars would use the Cambridge route.

Q. Did you maky any canvas of the people in those vehicles to find out whether they would prefer a route from Chesapeake Beach to Trippe's Bay——

A. (Interposing.) No. We just assumed they would because it would be shorter.

Q. Do you know where the machines you say were in Claiborne came from?

A. No.

Q. As a matter of fact, then, you haven't any real basis for that percentage of yours at all, have you?

A. As an estimate.

Q. Except as you say, you just thought it was a reasonable estimate?

A. Yes, sir.

Q. Suppose I tell you that that figure of over 91,000 vehicles that you expect to carry in the first years in your operation from Chesapeake Beach, to a point on Trippe's Bay, in Dorchester County, is a larger number of motor vehicles than has ever been carried by the Claiborne-Annap-

[fol. 108] olis is all the years of its operation in any one year, would that have the effect of changing or making you feel that you were a little enthusiastic in arriving at that figure of 91,000?

A. Not at all. I would still feel that my estimate was very low.

By Mr. Perlman:

Q. Let me ask you, did you make any inquiry as to how many vehicles are crossing the bay annually on the Claiborne-Annapolis Ferry?

A. No. I made no estimate. I assumed the traffic chart shown by the State Highway Commission was authentic.

Q. Explain to us, if you can, what that traffic chart has to do with the proposed service for motor vehicles across Chesapeake Bay?

A. It shows that the point of Claiborne, which is T-1 there were 780 cars, and we assume those cars, there being nothing else at Claiborne were there for the purpose of either crossing or getting someone at the ferry, particularly crossing to and from the eastern and western shores. In addition to that, as I stated in my direct testimony, we expect to increase this business very materially by this shorter route, and more particularly from Washington and tourist travel.

Q. Mr. Fox, do you know the distance between Washington and Chesapeake Beach on the State Highway?

A. I think so.

Q. Do you know the distance between Washington and Annapolis on the State Road?

A. Yes, sir.

Q. Is there any material difference between those distances?

A. At the present time I do not think there is very much. Chesapeake Beach may be a little shorter just at the moment.

Q. There is going to be——

A. (Interposing.) I might add the figures we have are based on the completion of the new extension of the Crane Highway.

[fol. 109] Q. They are based on the completion of some road which is proposed to be completed this spring or summer?

A. Under course of construction at the present time. I am told the contract provides that it be completed by the 15th of May.

Q. When it is completed, assuming it will be completed, there will not be any material difference between the distance between Washington and Annapolis, which is a terminus of the Claiborne-Annapolis Ferry Company, and the distance from Washington to Chesapeake Bay, which is the closest terminus of the proposed ferry service. That is correct?

A. By the proposed route it will be shorter to Chesapeake Beach in the neighborhood of four to six miles. Something like that. I think in the operation of an automobile or motor truck on the highway four to six miles is material, yes. It might not be on the railroad, but I might add to that that the railroad mileage from Chesapeake Junction to Chesapeake Bay is considerably less than the mileage from Washington to Annapolis by rail.

Q. But I was thinking more particularly of the motor vehicle service that you propose——

A. (Interposing.) Passenger traffic is also included in our estimates.

Q. (Continuing:) —because the greater proportion of your revenue will come from that source. Therefore, there will be when this road is completed only approximately four miles difference between the two trips, that is, one to Chesapeake Beach from Washington or one to Annapolis from Washington?

A. I am not sure that it is 4 miles. It may be a little more than that. However, the shorter trip across the bay will have some effect upon the business we are discussing.

Q. But you haven't reached the Bay yet. We will get down to either Annapolis or to Chesapeake Beach leaving Washington.

A. I understood you to ask your question in connection [fol. 110] with the one you asked before about how we arrived at the——

Q. (Interposing.) I was trying to bring out how anybody in Washington could get to our ferry approximately just as soon as they could get to the proposed ferry at Chesapeake Beach if they wanted to go across to the eastern shore. As I understand it is approximately, or will be approximately about 4 miles difference between the distances

to the Chesapeake Beach ferry or the Claiborne-Annapolis Ferry at Annapolis.

A. Your question is designed simply for an answer as to the mileage?

Q. Yes.

A. You say it would be as convenient?

Q. No. I didn't say that. I am taking your own estimates that there will be approximately four miles difference?

A. In mileage.

Q. Yes. After you go to either one or the other of the places, either Chesapeake Beach or to Annapolis, then the question as to which is more convenient or which is the shorter route depends upon what part of the eastern shore any passenger wants to go to. That is true, is it not?

A. Yes, sir.

Q. So that while you have given figures or distances to show that those desiring to go to the lower part of the eastern shore could get there—would have a shorter route from Chesapeake Beach across, it is, likewise, true that those desiring to go to the upper five counties mentioned before as being particularly served by your ferry, would have a longer distance to go than via the Claiborne-Annapolis Ferry?

A. Yes. Might I add I made no mention of the other five upper counties.

Q. No. I mentioned it. I thought the Examiner might be interested in them. Will you tell us the distance across Chesapeake Bay covered by your proposed terminus from Chesapeake Beach to Trippe's Bay?

[fol. 111] A. 13.71 nautical miles.

Q. Could you tell us in land miles what that would be?

A. 15-3/4 miles, I think. However, we have an engineer who will testify to those exact mileages.

Q. What time do you calculate it will take the ferry to cross the bay?

A. One hour.

Q. What horse power are these boats that you are supposed to purchase? Of what horse power will they be?

A. My recollection is 2,400, Mr. Perlman. However, Mr. Horn, our engineer, will testify to those technical points.

Q. What is the speed of your proposed boats?

A. I haven't the specifications before me, Mr. Perlman.

Examiner Molster: Are those specifications in the record?

Mr. Ames: We will have an engineer testify to them, and they are in the record now. Sub-exhibit 9 contains all the specifications.

By Mr. Perlman:

Q. This estimate you are making of the speed is an estimate that will be covered by an engineer?

A. Yes.

Q. Is that engineer here and is he going to testify?

Mr. Ames: Yes.

By Mr. Perlman:

Q. I would like to ask you if you have or propose to adduce any further testimony that would tend to substantiate the figures that you have given with respect to the amount of traffic, both passenger and vehicular.

A. I think my counsel can answer that question better than I can.

Mr. Ames: Read the question please.

(The Reporter read the question as above recorded.)

Mr. Perlman: On the proposed ferry service.

Mr. Ames: I will have some redirect examination of Mr. Fox on that point. I will have no other witness on those figures.

By Mr. Perlman:

Q. I understand, Mr. Fox, and I want you to correct me [fol. 112] if I am wrong as I would like to be accurate about it, that all of these figures are based on the number of machines that were counted in Claiborne, Maryland. It that right?

A. Not wholly, sir. They were based on the figures shown by this map of the traffic survey of the highway which I have shown. As a base we started with the Claiborne station, with the assumption that there being nothing else on that road or practically nothing else within 15 miles, and when I say "Nothing Else" I mean there is a little town or two and probably some few farms, but there is no traffic that I would consider of moment and we assumed that the traffic at that station was intended for ferry service or in connec-

tion with the ferry, but our estimate does not stop with that. We just use that 250 cars a day. We expect that to be supplemented by business wholly new to that section, tourist travel and other business which will be created by a shorter route and interchange of traffic between points south of the Choptank River and Washington, truck service, if you please, vegetables and produce that comes over there which now does not come into Washington direct. It possibly, is handled through some houses in Baltimore. That will create a new traffic which will be wholly new to transbay traffic. It is our assumption that using 250 cars a day, that that traffic will be included—that is the new traffic will be included in that amount. We show a wholly new route for a new channel of traffic that does not now exist.

Q. You have already testified that you made no inquiry as to the destination of the machines at Claiborne but you just thought it was fair to take approximately 30 per cent as——

A. Just for the purpose of the estimate. I think it was fair, having in mind the new traffic we expect to develop, in addition to what might come to Claiborne.

Redirect examination:

By Mr. Ames:

Q. Has this ferry you are proposing ever operated, this proposed ferry?

A. No.

[fol. 113] Q. Has it ever existed for the handling of traffic?

A. No, sir.

Q. Will you tell the Examiner how in the world you could do anything but estimate the number of cars you would carry?

A. I think the questionnaire provides that you estimate the traffic for the period.

Q. Could you have done anything but estimate?

A. No, sir, nothing to work on.

Q. In arriving at this 32 per cent did you take into consideration the possible new traffic or did you just base that on 32 per cent of the year's at station T-1?

A. No. Station T-1 showed there were 780 cars and we felt that the traffic to and from points south of the Choptank augmented by the new traffic we would create by

reason of our shorter service between Washington and points west of Washington and points on the eastern shore, in the four lower counties and the two counties of Virginia, would amount to at least 250 cars per day which is approximately 32 per cent of 780. In addition to that possibility we have the possibility of new traffic. I inquired into the population of these counties on the eastern shore, the automobile registrations and every source of information I could possibly think of that was available to me and on that investigation I estimated 250 cars a day. I have had experience on other railroads in estimating possible traffic—25 years or a little longer. In taking this figure of 780 cars, I did not stand over there and ask every fellow that came by where he was going. I would not have a right to do that and he probably would not tell me.

Q. In your direct testimony, Mr. Fox, you also made another entirely independent estimate, didn't you, based on capacity operation?

A. Yes, sir.

Q. That came out pretty close to your other estimate, didn't it?

A. Very close, within a few cars.

[fol. 114] Examiner Molster: That, of course, was a mere coincidence, I suppose?

Mr. Ames: Yes, a coincidence, your Honor, a very significant one, however.

The Witness: In making that, Mr. Examiner, we know, as a matter of fact, that the peak movement is during certain seasons of the year when tourists and people are traveling. We know that it is less at other seasons of the year. We made the best estimate we knew how to with the information available. I do not think we could have done more.

Q. How about the distance across the bay?

A. That is materially shortened between points south of the Choptank and Washington or Chesapeake Beach as compared with from and to the same points and Washington via Annapolis.

Q. I want to be fair. I am not talking about the interior destination of the passenger. I am talking about the water haul from slip to slip. How does that distance compare?

A. It is my understanding that the Clairborne-Annapolis line is 23 miles. I am not sure about that. I do know the

correct mileage for the Chesapeake Beach-Trippe's Bay route. I have seen their report to the Public Service Commission of Maryland in which the Clairborne-Annapolis Ferry Co. show they receive a subsidy from the State of Maryland—I think something like $23,000. My understanding is that it is based on a thousand dollars per mile ferry travel in lieu of maintenance of highway for the same distance, per mile.

Q. If we assume the difference in the distance across the bay over the two routes is 7 miles about how much time would that save the passenger in his trans-bay movement?

A. 30 minutes.

Mr. Perlman: Ask him what passenger. Where is he going?

By Mr. Ames:

Q. The difference between the Annapolis-Clairborne passenger and the passenger on the proposed ferry, who, ac-
[fol. 115] cording to our estimate, will make the trip in one hour. I am basing the question on that assumption. If we assume the time saved is 7 miles—or the distance saved is 7 miles, how much time do you think that would save?

A. 30 minutes in the cross-bay movement. I am familiar with the approach to the Annapolis Ferry from the Defense Highway, the Washington road. I have been over it quite a number of times. I should say probably 15 or 20 times. In reaching that ferry at Annapolis, you have to drive through the main section of the city.

Q. Contrast that with the entrance to your Chesapeake Beach Ferry, what kind of country do you traverse going to that ferry?

A. I should say a wide open country: an agricultural country.

Examiner Molster: As long as we are talking about the country the Examiner would like to inquire whether counsel proposes to adduce testimony of the kind contemplated by questions 18 and 19 in the questionnaire?

Mr. Ames: We will cover that, Mr. Examiner. In response to the Examiner's questions in respect to the possibility of adducing evidence in reply to questions 18 and

19 of the questionnaire we desire to state that it is not our plan at present to handle carload freight traffic. We deem these questions peculiarly applicable to carload business and for that reason in our reply to the questionnaire we have indicated that they are not applicable to our operation. We do expect, however, to handle some merchandise or package freight moving in interstate commerce.

Examiner Molster: Do you expect to show the sources of the probable movement of the package freight?

Mr. Ames: Anything we might show in that respect, your honor, would be the barest kind of a guess. I have in mind one particular kind of package freight which will very likely move from Washington, and that is ice cream. As to other possible sources of freight, as I say, it would be the barest kind of a guess because we do not propose to operate until 1931. We can not very well solicit on that [fol. 116] basis, but the world is open to us on package freight.

You have wholesale houses in Baltimore and in Washington, jobbers, if you please, who move package freight in considerable quantities to the eastern shore of Maryland. We shall certainly endeavor to our utmost to get that business for this ferry or at least a fair share of it, but I do not know that I could introduce any witness that would testify positively on just what we expect to get.

Examiner Molster: I think if you will pardon the interruption, there is something in the testimony or else in the return to the questionnaire concerning the probably movement of perishables and seed products to Washington.

The Witness: That was intended, if I may say, Mr. Examiner, in response to the truck traffic moving to and from those points.

Examiner Molster: Rather than traffic of the railroad?

The Witness: Rather than traffic, carload freight.

Mr. Ames: We expect to put on a produce man from Washington here who will testify about the possibility of the service. We will probably have other people who can testify as to the freight possibilities as well as the passenger possibilities.

Examiner Molster: It would seem to me that in the present state of the record you are asking the Commission to take notice of all the things that are produced on the eastern shore and possibly the testimony which you now suggest will cover the point.

Mr. Ames: I might say that was one of my reasons for asking you to put the case on in my own way because some of these questions in here are so plainly inapplicable that I think we would have a better record by putting the case on in the usual way. I leave it to your judgment, however.

Examiner Molster: I do not wish to interfere with counsel's presentation of his case.

Mr. Ames: You have not and I do not want to put you in that position.

[fol. 117] There is one more question that I would like to ask Mr. Fox.

By Mr. Ames:

Q. You do not expect to serve any industry by this ferry in the way of a plant facility or anything of that kind, do you?

A. There is none contemplated at this time.

Q. Are any of the securities which you anticipate asking authority to issue on account of this project to be underwritten by industries to be served by the proposed line?

A. No, sir.

Q. Have you received any aid, gift, grant or right of way or has any donation been promised in connection with the proposed new line of——

A. No, sir.

Recross-examination.

By Mr. Perlman:

Q. I note in the return to the questionnaire that you give an estimate of the population of the territory to be served by the proposed service. The population is 248,294. That territory containing that population is what?

A. Wicomico, Dorchester, Somerset and Worcester Counties in Maryland and Accomac and Northampton Counties in Virginia. The population of the counties of Accomac and Northampton in Virginia is approximately 60,000. I accrued my estimate of population of the four Maryland Counties from this Market Data Handbook of the Department of Commerce, United States. I have looked at the 1920 census of those four counties, but I thouht 1920 was so far back, and this other authority, the figures given by the Department of Commerce was much better, 1927.

I cannot give those figures by counties. I haven't the book with me but the volume referred to will give it. I will be glad to produce it.

Q. I would like to see that because there is a pretty wide discrepancy between the figures you suggest and the 1920 figures of the census.

A. There should be between that and 1920 because that is almost 10 years ago.

By Mr. Perlman:

Q. You haven't those other figures here?

[fol. 118] A. I haven't them with me.

Examiner Molster: Could that be produced by the applicant at the afternoon session?

Mr. Ames: Yes, sir.

A. I do not recall the 1920 figures. I do not know anything about the additional route of the Claiborne-Annapolis Ferry Company from Annapolis to Kent Island. I have heard of it. I have heard of such a proposed route. I know nothing about it, however.

Q. Have you heard that new operation—that additional operation will go into effect in either the month of May or June this year?

A. I think I have heard that rumor. I know nothing authentic.

Q. Do you not know that that route, the new service, will have a water haul of only 6½ miles across Chesapeake Bay?

Mr. Ames: Do not answer. Mr. Examiner, that is so plainly an undue broadening of the issue here that I am going to object. We are not trying the propriety of the Kent Island Ferry route.

Mr. Perlman: Mr. Examiner, he undertook to make some comparisons of the distances between the Claiborne-Annapolis operation and his proposed operation, and of course, I think the Examiner ought to have an idea of our operations, present and proposed, before any conclusion is to be drawn.

Examiner Molster: Do you propose to establish the fact of that operation?

Mr. Perlman: Absolutely.

Mr. Ames: I will withdraw my objection. Let him answer.

The Witness: No. I understood it was going to be more like 8 miles or something of that sort. That was my information.

By Mr. Perlman:

Q. I think you gave the figure of approximately 23 miles for the present water haul?

A. To the best of my knowledge.

Q. If I told you that it was 19 and three-fourths miles would that refresh your recollection any as to the accurate distance?

[fol. 119] A. I have no knowledge of the actual distance. My understanding of the distance was probably somewhat influenced by the amount of the subsidy based on the $1,000 I understood the State paid per mile. That may have influenced me to believe that it was 23 miles. To answer more fully your question about the other proposed ferry, I gave it no consideration. Because of its distance north I did not think it would be in any way connected with the service we propose to perform in the southern counties.

By Mr. Perlman:

Q. I think it was you or your counsel—somebody made a suggestion about the amount of summer traffic to Ocean City, Maryland: Could you give us any estimate of the differences between a route over your proposed ferry from Washington to Ocean City and the Claiborne-Annapolis Ferry Company?

A. 24 miles shorter via the proposed ferry than via Claiborne between Washington and Ocean City.

By Mr. Perlman:

Q. I meant how much of the difference between the two routes is water haul?

A. It would be the distance between your ferry route and our ferry routes which I understand your distance to be 23 miles.

Q. I understand, Mr. Fox, that you are making no special claim as to the source of merchandise that you expect to carry?

A. No. It is all proposed. We will have a freight station at our other terminal as we have at the western shore termi-

nal and we expect to handle some package freight business.

Q. I understood either you or counsel to say that what you had particularly in mind was business from Washington to the eastern shore or vice versa.

Mr. Ames: I do not think any such statement as that was made.

Mr. Perlman: I think Mr. Ames said——

Mr. Ames (interposing): I said that was incidental.

Mr. Perlman: I wanted to get it clear that there is business now going to Baltimore which would go to *Baltimore*. I think you said that.

[fol. 120] Mr. Ames: Going where? Business now going to Baltimore which would go to Washington?

Mr. Perlman: Yes, if the new ferry is established.

Mr. Ames: I didn't say anything about that.

Mr. Perlman: I understood you to say that a little while ago.

By Mr. Ames:

Q. Did you say that (addressing the witness)?

A. I do not recall what I said. We expect to inaugurate a new business between Washington and these points by reason of this new ferry and the shorter route. We expect that will create some new business.

By Mr. Perlman:

Q. Do you expect business now going to Baltimore, any part of it?

A. We would naturally expect to get some of it via a shorter route. The route being shorter, we would expect some of the Baltimore business to travel our way and avoid the congestion in the City of Annapolis and get the benefit of this more convenient ferry service.

By Mr. Ames:

Q. You also expect to open up the Washington market to the eastern shore growers, do you not?

A. Yes, sir.

Q. This ferry at Kent Island you have heard remarks about in these remarks. Did you hear that was going to be built by the Claiborne-Annapolis Ferry Company?

A. I think so. That is my recollection.

By Mr. Ames:

Q. Is that the same company which is protesting your application?

A. Yes, sir.

Q. Have you heard of anybody except that ferry company making any objection to your ferry?

A. No, sir.

Examiner Molster: Just for the sake of absolute clarity, does the Examiner correctly understand that the station marked T-1 on Sub-Exhibit No. 4 represents the City of Clairborne?

The Witness: Yes, sir.

[fol. 121] Examiner Molster: How is that Choptank River delineated on this map?

The Witness: The Choptank River—Cambridge is shown as D-5. That is located on the Choptank River. This water, which as the eastern shore gentleman say, "makes up" behind Cook's Point, is the Choptank River.

After Recess

Dr. CHARLES W. PURNELL testified as follows:

Direct examination:

My name is Charles W. Purnell, Manager of the Atlantic Hotel, Ocean City, Md. I am President of the Chamber of Commerce, Ocean City, Md. The Chamber of Commerce at Ocean City has considered and discussed the proposed ferry route here under consideration and the members, as far as I can find out, are all favorable, although we have never voted on the proposition. I have discussed this proposition with various members of the organization and have found no opposition in the Chamber of Commerce against this proposed ferry route. They are all heartily in favor of it. I am familiar with the general trend of the tourist business which is now coming to Ocean City and feel that the proposed ferry route will increase that tourist business.

Q. What are the reasons behind that belief, Doctor?

A. Well, more direct communication between Washington and Ocean City and a quicker route, no doubt, will bring a very large increase in the tourist business to Ocean

City, in the estimation of myself as well as a great many others. There is direct rail connection between Cambridge and Ocean City, Md. by way of Hurlock. There is no line of railroad running direct from Cambridge to Ocean City, Md. There are improved highways from Cambridge to Ocean City, Md. by a roundabout way. The most logical route I would say is by way of Vienna, providing there was a bridge crossing the Nanticoke River. There is a movement on foot, toward constructing a bridge at Nanti- [fol. 122] coke. I have been located at Ocean City for eight years and am familiar with the present means of getting into Ocean City from northern points, such as Washington.

Q. Do you think that the present means of communication as between Washington and Ocean City are satisfactory?

A. Well, that really depends a great deal upon how you are to get there. A person owning an automobile, of course, can go very nicely by way of Claiborne; but, if anyone is either unfortunate or fortunate enough not to own an automobile, it is a lot of trouble to get to Ocean City. I have heard various complaints from prospective customers. The proposed ferry, if it saves one hour's time, I should think would be considerably better.

Cross-examination.

The seasons at Ocean City seem to be increasing. The Atlantic Hotel and three or four others open at Easter and keep open until about November; whereas five years ago it was usually the Fourth of July until Labor Day, when all closed up. The greater part of the tourist travel to and from Ocean City is between those dates. Even now the road between Berlin and Ocean City is crowded with automobiles. It may be that mostly they are people living on the Eastern Shore but there are a great many foreign cars. The boarding houses and smaller hotels all open now by the 15th of June, and they close about the middle of September, with the exception of about half a dozen which keep open longer. There is a good deal of tourist travel outside of that period. But the bulk of it, of course, is between the middle of June and the middle of September.

Redirect examination:

The permanent population of Ocean City is estimated at eleven hundred at the present time. The winter population, those people live there all the year round.

Robert H. Matthews testified as follows:

[fol. 123] Direct examination:

My name is Robert H. Matthews, Cambridge, Md., fire insurance and real estate. My activities take me around the Eastern Shore counties in question. I am familiar with the territory all along the Eastern Shore of Maryland and Virginia and am in favor of the project before the Commission. I am a member of the Del-Mar-Va Association, which is composed of people all over the Shore, to promote the better interests and better conditions on the Shore. Its representation covers practically the entire Eastern Shore—the nine counties of the Eastern Shore of Maryland, Virginia and Delaware. I have heard this ferry proposition discussed a great deal on the Eastern Shore. Based upon my contact with the situation, I would say that the general sentiment toward this new ferry, below the Choptank River, is very favorable.

W. Laird Henry, Jr., testified as follows:

Direct examination:

My name is W. Laird Henry, Jr., Cambridge, Md., lawyer. I am a member of the Chamber of Commerce at Cambridge, which has heartily endorsed this ferry. A resolution was introduced in the Chamber and was unanimously adopted by the full chamber. I am familiar with the purpose and activities of the Del-Mar-Va Association in a general way. I am not a member of it. They meet in regular session in Salisbury. I know that the Association, through its President, has sent a telegram to the Interstate Commerce Commission in Washington endorsing this ferry.

CARROLL E. BOUNDS testified as follows:

Direct examination:

My name is Carroll E. Bounds, lawyer, Salisbury, Md. I am not here in any official capacity at all, but only as a resident of Wicomico County. I am heartily in favor of anything that will bring closer together, by distance or by [fol. 124] time, the Eastern Shore of Maryland and the Western Shore, also the Eastern Shore of Maryland and the City of Washington. I am more or less familiar with the farming industry generally in that section. I know that we ship a great deal of perishable produce and truck to this city. I know that our facilities at present are rather unsatisfactory. I know that a great many of our shippers in Somerset and Wicomico Counties oftentimes drive their trucks all the way round up the Delaware road and around by Elkton in order to get to Washington with their produce, and they oftentimes drive all the way back the same route. They sometimes use the Claiborne Ferry.

Now, I am not familiar altogether with the distance that this proposed line will eliminate, but I understand it is very considerable. I think, as I said, that anything that will eliminate that time or distance between the two Shores is very desirable from our standpoint.

I also might say that our section down there is growing very fast—Wicomico County and Salisbury particularly. And I think that better ferry service, quicker ferry service, between those two points in question would be of very great benefit to us.

Now, of course, I am interested in anything that will open up our section down there to other parts of the State, as well as to other parts of the country. I think it would be of very great benefit to us.

I might also say that I think the traffic between the two Shores is increasing to such an extent as to justify additional ferry service. I have heard this proposition discussed by residents of Salisbury and have heard no opposition to it.

JOHN B. GRAY, JR., testified as follows:

Direct examination:

My name is John B. Gray, Prince Frederick, Md., lawyer. I think undoubtedly this project will be a great public

convenience so far as the lower end of the State of Maryland and the lower end of the Eastern Shore are concerned. [fol. 125] It will make the two sections of the State in very much more convenient contact. It will eliminate, from my town of Prince Frederick, for instance, at least 50 miles of travel in reaching the town of Cambridge and a somewhat less distance in reaching other towns on the Eastern Shore, such as Salisbury and Ocean City.

The two parts of the State are separated by the Chesapeake Bay, but from time to time we do have to have contact with people across the Bay; and any direct method of getting there is a very desirable improvement.

I think, further, that the proposed ferry would be a very substantial benefit to the people on the lower Eastern Shore, in so far as it will give them a very much more direct access to the Washington market. Prince Frederick is about 14 miles from Chesapeake Beach and about the same distance from the nearest station on the Chesapeake Beach Railway, which is Owens Station. I have discussed the new ferry with people in my county and other southern Maryland counties and have encountered no opposition to it.

HERBERT HEARN testified as follows:

Direct examination:

My name is Herbert Hearn, Cambridge, Md., wholesale hardware. My business carries me over the entire Eastern Shore of Maryland, Delaware and Virginia. I am somewhat familiar with the conditions along the Eastern Shore. I have lived there all my life. I have heard this new ferry project discussed in Cambridge and all I could hear was very favorable. I have heard no opposition to it. This proposed ferry would benefit the Eastern Shore, with particular reference to Cambridge. Cambridge at the present time is a terminal for a railroad and also for the state road system, except some county roads which run down through the county. This would lay us on a direct line of traffic between the Western Shore and the Peninsula—I might say Salisbury, Ocean City and other towns on the southern Peninsula, and Washington and Baltimore.

[fol. 126] J. M. GIGNILLIAT testified as follows:

Direct examination:

My name is J. M. Gignilliat, Manager, Tour and Travel Bureau of the American Automobile Association, Washington, D. C. In connection with my official position with the Three A's, I have to familiarize myself with tourist and transportation conditions by highways radiating out of Washington. I am familiar with the traffic and highway conditions between here and the Eastern Shore of Maryland. I am familiar with this project which is now before the Interstate Commerce Commission. The interest of our Association is the interest of the motorist and the means of transportation for getting motorists from one point to another.

Our main job in my department is to direct people to places to go to and what to see and do when they get there.

The Eastern Shore is a portion of the country which is of great interest to the people of Washington and surrounding territory and also to people who come to Washington from other points.

At the present time we have found that the ferry facilities for taking people from Annapolis to Claiborne are somewhat limited, especially on busy days during the summer—not so much the days of the week as holidays and week-ends. This had been brought to our attention by members who come in there and ask us to make reservations with the Ferry Company when they go from Annapolis to Claiborne and return. That, in itself, would tend to show that the means of transportation are somewhat limited at times. Take also the Annapolis highway, leading from Washington to Annapolis. That takes many people there who have no interest in going over the ferry; and that puts many people on the road. And, if they have a set schedule which they have to make, of course, that all has a bearing on what time they have to leave Washington; and for that reason they have to leave somewhat earlier than they might want to.

[fol. 127] In going from one place to another, of course, the greatest interest of the motorists would be in time-savers—how far the different points are and the means of getting across such places as streams and rivers.

We have had people come into Washington from other places, especially in the summer-time, planning to reach bodies of water and inquiring of us where the nearest place to Washington would be for swimming, boating, and so forth. That has been rather hard to answer up to the present time.

Take even the New Jersey resort of Atlantic City. That has been as favorable as any, and that is only 180 miles from Washington. They have a ferry up there which runs every 15 minutes, and it is only about 10 minutes across.

You can figure, as conditions are now, on devoting about the same amount of time driving on the roads to put a person in Atlantic City or in Ocean City. For that reason we have been having to give both places as alternate places where people could spend the week-end.

Such places are drawing people from the South and from points in West Virginia and the West. Take Virginia Beach, with a bridge, 210 miles from Washington. Driving all the time, they can get there, counting the amount of time they have to spend on the ferry here, in about the same time it now takes to get to Ocean City.

With the difference in mileage and running time across Chesapeake Bay to the Eastern Shore, the situation is such that I think the proposed ferry would be a great asset to people wishing to cross to the country on the other side.

At the present time there are many historical points of interest across on the Eastern Shore, which people do not go to visit right now on account of the somewhat limited ferry facilities and also because of the time it takes—an hour and a half across and as much back, which is three hours.

In the summer-time a ride on the water is very delightful [fol. 128] and cooling to a motorist who has driven a number of hours. They want to get where they are going and spend some time on the beach. The proposed ferry, being an hour against a hour and a half on the other ferry, does shorten it. And that would be a big help to the motorist. The saving in time would be equivalent to about 20 miles, at the present rate of speed. This proposed ferry route will make a desirable highway to the Eastern Shore which needs better ferry facilities than what it now has. I am familiar with the ferry operation at New Castle, Del. There are two ferries there, seven miles apart. I do not know

whether there are two companies or whether they work jointly. I notice that they use the same literature, though, in puttng out a ferry schedule.

Cross-examination:

I do not make any independent estimate of the difference in time across Chesapeake Bay made by the present operation of the Claiborne-Annapolis ferry and the proposed operation. That is just from listening to the testimony and hearing what has been stated. I just assumed that from the testimony given here.

Q. So if, as a matter of fact, there is no material difference between the length of the present trips, to that extent it would alter what you have just said about the speed with which you can reach the Eastern Shore?

A. Yes, sir. I am familar with the proposed ferry from Annapolis to Kent Island. I have heard that it will mean only a trip of 6½ miles across Chesapeake Bay.

Q. Now, Mr. Gignilliat, after that new operation is started, won't travelers by that route be able to reach Ocean City in considerably less time—I mean motor vehicle travelers—than they would over the proposed operation by the Chesapeake Beach ferry?

A. I do not think I can answer that question fully, because I sent a car over the proposed road down to Chesapeake Beach last week; and they were laying concrete, and we were not able to continue over the road which they were [fol. 129] supposed to be laying. The difference in mileage between Washington and Chesapeake Beach on the one hand and Washington and Annapolis on the other is approximately four miles. The Kent Island ferry will put you higher up, and you will have 15 to 20 miles further to travel from Washington to Ocean City.

Q. But it is true that you travel much faster on land than you do on water; isn't it?

A. These roads which run from Kent Island to, say, Salisbury have not been logged or any figures given; but, if it is 20 miles longer, I cannot see how it would put you there any quicker.

Q. What is the average rate of speed which you use in computing these times between places?

A. I would say 35 miles an hour.

Q. You would?

A. Yes, sir.

Q. Then, if it were 20 miles difference, that would be less than an hour; wouldn't it?

A. Yes, sir.

Q. In fact, not much more than half an hour; is that right?

A. Yes, sir.

Q. Then, on the other hand, you would be comparing a water trip of 6½ miles against a water trip of more than 15 miles?

A. That is true.

Q. Which is more than twice the time on water; is not that so?

A. That is true, as the mileage is represented now.

Q. With those estimates, would or would you not say that the time between Washington and Ocean City, for example, could be made just as quickly or quicker over the proposed route of the Claiborne-Annapolis ferry than over the proposed route of the Chesapeake Beach ferry?

A. If the traffic increases much more on the Annapolis boulevard, you cannot make any time on it. And right now people travel 9 miles further to avoid that Annapolis boulevard.

[fol. 130] Q. Then, you think that would play some part, and maybe a material part,—the increase in traffic on the Washington-Annapolis road?

A. Yes, sir.

Q. That is, the Defense Highway?

A. Yes. I think that, if you put in these facilities for travel across the Chesapeake Bay, the traffic over there will double itself in a couple of years. I know that people who want to go over there now and spend as much time as they can on the water will turn away and go elsewhere, rather than stay under the present circumstances. That travel takes up about five months of the year. When the days are long enough, from now on,—they are coming in right now and showing interest in going to the beaches already. We have made reservations for people up at Atlantic City right now. Easter is one of the big seasons, and at Atlantic City it begins about a week earlier.

Q. But I am talking about Ocean City.

A. They haven't the facilities to get people there now. That is the reason they do not go there.

Q. You think this proposed service would be a great convenience to the people of Washington?

A. I think so; yes, sir.

Q. And to tourists who come from the South?

A. Yes, sir.

You see, Washington has a population of thousands of people who do not live in this vicinity permanently. They come here as Government workers from other places. They do not stay in town, and they want places to go to. That is what we have to furnish them with; and we are, of course, interested in getting people where they want to go.

Q. And this would be an added facility, of course, for those who are closer to Chesapeake Beach or to the territory which is served by Chesapeake Beach?

A. Yes, sir.

[fol. 131] Q. Than, of course, if would be to those who do not live in that territory?

A. Yes, sir.

Redirect examination:

We receive information from time to time about all the highways around here. We have telegraphic service on every road in the country. The Defense Highway is a very crowded road, and it is very narrow. I would not like to express myself any further on that point. Counting from Washington, I would say that Ocean City was about 111 miles by the new ferry as against 133 miles by the Claiborne ferry. In getting to the Annapolis ferry, you have to drive practically through Annapolis to get to that ferry. I do not know where the landing will be at Chesapeake Beach, but there is no town that you have to go through there. Most of the crowding of the streets in Annapolis is due to the presence of tourists and strangers. A great many go there to see the Academy.

Examiner Molster: If that traffic congests the streets of Annapolis, won't it congest the road to Chesapeake Beach?

The Witness: To Chesapeake Beach? Yes, sir; to some extent it would.

FRANK ROBBINS testified as follows:

Direct examination:

My name is Frank Robbins, Cambridge, Md., life insurance and real estate. I have lived in Cambridge all my life. That has been my home. I have been away, of course, a month or two at a time. I went to work for the Red Seal Oil Company in Baltimore in March, 1914, and in 1915 I was made Eastern Shore manager, taking in all the Eastern Shore Counties from Cecil down to Cape Charles, Virginia.

Since 1922, I have been associated with the Equitable Life of New York and on specialty work in other counties, working with other agents. My activities take me pretty well over the Eastern Shore. I am a director of the [fol. 132] Chamber of Commerce at Cambridge. The people of Cambridge first began to think about an additional ferry route across Chesapeake Bay, I think about in June, 1928, was the first time that I discussed it publicly with anybody —I might say privately, with two or three people. That private discussion was to the effect that I took it upon myself, after being sure of the bankers and real estate men that I had confidence in,—I took it upon myself to write a letter, as filed, to the business men of Dorchester County. I wrote to bankers, farmers, mechanics, real estate men,—in fact, I should say men in all walks of life. In the last five or six years—and I wish to refer to the fact of different organizations being formed—there has been a movement for better transportation and better industrial relationships for the whole peninsula. There have been more Chambers of Commerce, more Rotary Clubs, more Kiwanis Clubs and more Lambs Clubs formed on the Del-Mar-Va Peninsula in the last ten years than in the past one hundred years. The people over there feel that they were not getting all that was coming to them in the way of transportation. We knew that we did not have sufficient outlets for our products. A company was organized for the purpose of constructing and operating a ferry. As the record shows, on September 4, 1928, these letters were sent to the business men of Dorchester County, asking them to attend a meeting in the banquet room over Robbin's restaurant to discuss in detail the possibility of establishing a

ferry line from Cook's Point or thereabouts, to Chesapeake Beach, Calvert County.

Q. Did that organization take the form of an actual company?

A. That organization approved it at that meeting; and to show that the organization did approve it I would like to make this statement: that, as to all present, we knew that the responsibility for the investigation should not fall on the Chamber of Commerce or the Rotary Clubs, as is usual. So I called on each man, if he cared to express himself from the floor relative to the proposed line, to do so, and each person who wanted to do so stood on the floor [fol. 133] and discussed it from a map drawn up by a local engineer, Mr. Guy F. Bryan.

Now, to determine whether those present were with us 100 per cent or not, I asked every man in the room to walk to the table and lay on the table a stated amount, in cash or check, to help defray the expense of an investigation to find out, in the first place, whether the line should be established and whether we could find somebody big enough financially to establish and give us this line; and 100 per cent of the people in the room walked to the table to lay money on the table to make the investigation with. After that was done, we moved at that meeting that a secretary and treasurer be appointed. That was done. It was moved that a company be formed, and five or six men formed a corporation known as the Cambridge Ferry Company, and the incorporators naturally named the first Board.

I would like to give an illustration of the different classes of people who are on the Board of Directors of the Cambridge Ferry Company. They are as follows:

Frank Robbins, myself, President. I will give the capacity in which they serve.

Mr. Herbert Hearn, wholesale and retail hardware, Vice President.

Mr. Robert Tubman, retired shoe manufacturer from Baltimore City, and a resident of Dorchester County for fifty years.

Mr. Roy Melvin, produce.

Mr. Howard Spedden, canner.

Mr. Sidney Henry, Treasurer. He is a real estate man.

Mr. Franklin Seward, canner.

Mr. Samuel W. Linthicum, canner, lumberman and banker.

Mr. Robert Matthews, banker, real estate and fire insurance.

Mr. Scott Meekins, Manager and Treasurer, Cambridge Wholesale Grocery Company.

Mr. J. Davidson, retired.

Mr. R. Ryder, retired.

Mr. Clement S. Henry, real estate.

[fol. 134] The Board was formed, and we met. Before we, as directors of the Cambridge Ferry Company, would go further, we decided to call a meeting at Salisbury, Wicomico County, Maryland, to discuss this think publicly with the leading business men of Dorchester, Wicomico, Worcester, Somerset, Accomac and Northampton Counties.

Then the letters were sent, and representative men attended this meeting held in Salisbury, Md., December 13, 1928.

At that meeting different representative people talked and discussed this plan as fully outlined, and this meeting as a body endorsed a ferry route from Trippe's Bay, Dorchester County, to Chesapeake Beach. I had a map there showing it from Chesapeake Beach and Fairhaven, because at that time we did not know whether we would be able to land at Chesapeake Beach or Fairhaven. We made application to the Maryland Public Service Commission for a certificate of public convenience and necessity. We had the Public Service Commission postpone the time for hearing indefinitely, due to the fact that we could not at that time show the proper financial set-up, and we knew it would be silly to ask them for an authorization of the line when we could not financially uphold it.

Q. It was entirely a Bay to Bay proposition?

A. Yes, sir. All the people I come in contact with are mighty anxious to have another transportation system to the Eastern Shore of Maryland.

Relative to our own people and the Salisbury people and the Ocean City people, we feel that we would like to have a direct line, so that, if we wish to go to Baltimore, Washington, Richmond or any other point,—we can do so by both a saving in time and a saving in miles and, last but not least, a savings in dollars. The distance by highway from Claiborne to Ocean City is 98 miles. The distance from Cambridge by highway to Ocean City is 62 miles. We

fellows in Dorchester County can come to Washington and make a round trip practically in the time we can leave by the Claiborne Ferry Company and come to Washington.

[fol. 135] EDGAR MORRIS testified as follows:

Direct examination:

My name is Edgar Morris, President of the Morris Sales Company, 1903 G Street, this city, wholesale distributors of gas and electric appliances and representing the Pittsburgh Water Heater Company and the Roberts-Anderson Stove Company We distribute our products along the Eastern Shire. We could use this proposed ferry in making less then carload shipments to the Eastern Shore, to very good advantage, because we oftentimes make less-than-carload shipments to Crisfield, Salisbury and places like that. We have warehouses here in Washington. We have traveling represenatives who work out of Washington and travel that territory regularly by automobile. I am in favor of this proposed ferry route.

ARTHUR C. SMITH testified as follows:

Direct examination:

My name is Arthur C. Smith, Vice President and General Manager, Smith's Transfer & Storage Company. I am Chairman of the Transportation Committee of the Washington Chamber of Commerce. I am familiar with the transportation conditions to and from the Eastern Shore — Maryland, having had the pleasure of going to Ocean City each year for the last ten or twelve years. It has been a pleasure for the family, but not for me. I am familiar with the proposed ferry project which is now before the Interstate Commerce Commission. I am in favor of it and so is my committee. As a committee and as the Chairman of the Committee, we believe that it will open up business relations between the Peninsula and Washington, so that we can get truck and produce in a very much shorter time and at very much less expense. I do

not regard the present mode of ingress and egress to and from the Eastern Shore as satisfactory. This proposed ferry route will improve those conditions very materially. It will shorten the distance and shorten the time. It would [fol. 136] make my own summer outings at Green City very materially beneficial to me, in the way of going down to see the family. I figure that I can get down there in five hours now, and it used to take me practically ten hours.

DORSEY W. HYDE, JR. testified as follows:

Direct examination:

My name is Hyde—Dorsey W., Jr.—Secretary of the Washington Chamber of Commerce. I keep in approximate account of the number of annual tourists to Washington. The only complete survey made was that by the engineering firm of McClelland & Junkersfeld.

On the basis of that survey, which included only the larger hotels, the well known hotels, and the number of transients coming to those hotels, the estimate figures out, for the last recorded year, at 1,800,000 tourists to Washington. That total was for 1925. That being, as we considered, conservative, we put the same estimate today at somewhat less than 2,000,000. That does not include rooming houses, of which there are a great number in Washington, private boarding-houses, apartment hotels and many other establishments which take care of transient people. My personal opinion is that last year about 5,000,000 tourists came to Washington. I am familiar with the proposed ferry project which is now before the Commission. I regard that project as decidedly an essential thing to Washington and the Eastern Shore of Maryland. I would like to state, if I may, briefly, my reasons for that belief. I have mislaid my notes, but I will talk without them.

In any large metropolitan city, its success from the standpoint of business development depends very largely upon its ability to build up a trade area around that city and to enter into friendly and equitable trade relations with such surrounding area.

Washington has been very much handicapped in that respect in certain sections surrounding its natural area,

and largely so by reason of the very nature of the city. [fol. 137] Being a Federal city, there are certain limitations on manufacturing. Those have been somewhat overcome. We now produce here over $100,000,000 a year of manufactured products. We have some 600 industrial plants in this city.

They have been handicapped somewhat, except north and south. To the east and west, facilities have not been equally good. The Potomac River is a natural highway, but it has only recently been open to traffic on a large scale. We cannot handle traffic to the extent we might under proper circumstances.

Further to the north, the United States Engineering Department has developed a plan for power generation and canalization of the Potomac. That has been held up.

Now, our main dependence is on roads in those two sections; and the one handicap to roadway traffic is the lack of facilities over the numerous waterways. Washington today has only two bridges connecting it with Virginia, although in most countries abroad you will find five or six in a like situation.

The Eastern Shore is perhaps one of the richest agricultural territories within reasonable access to this city, and one which should be included in our natural trade area.

We are absolutely cut off from any connection with the Eastern Shore, except through some such means as is proposed here today. I think most of the business men of Washington feel that such a ferry would be of great advantage, not only to the people on the Eastern Shore, but to the people of the District of Columbia.

We feel that the figures as to the contemplated probable use of the ferry are extremely moderate. We feel that the residents both on the Eastern Shore and on the Maryland side of the Chesapeake Bay would make use of that ferry to an extent that cannot be accurately estimated now, because the ferry does not exist. We feel that that section would become a natural playground for innumerable groups of Washington people, who would go over there and buy land and establish themselves there and use it for summer [fol. 138] recreation.

We feel also that the number of tourists who come to Washington is far beyond any estimate which has been

advanced as yet. And they would, we believe, use this route quite largely.

The number of tourists coming to Washington each year is rapidly increasing, and they are giving more attention to motoring around through the nearby sections of Maryland and Virginia.

About ten years ago I picked out one of the main highways and went three miles and ended in mud; That was not only occasionally so, but frequently the result which the tourist found when he undertook to make a trip. But, with the new road now being built and with improved ferry transportation, we feel that the tourist travel will materially increase.

H. V. Hayghe testified as follows:

Direct examination:

My name is H. V. Hayghe, bookkeeper and office manager of the W. Charles Heitmuller Company, 923 B Street Northwest, Washington. The company is in the wholesale fruit and vegetable business. We secure part of our supply of fruits and vegetables from the Eastern Shore of Maryland and Virginia. The trucks now use the present ferry service from Claiborne over to Annapolis and the road from Annapolis to Washington in bringing those fruits and vegetables to our store. We sometimes have difficulty with that ferry service, in so far as concerns overloading of the various boats when moving on the schedules on which they now operate, which necessitates a hold-over at times of truckloads which should have been here earlier in the morning and caused late delivery. We have found the ferries taxed to capacity at various times. I am familiar with the proposed ferry which will run from Trippe's Bay to Chesapeake beach, Md. I regard that as a feasible route from the Eastern Shore. Of course, we could not, as far as we are individually concerned, authorize the shippers to make use of that route, but we could suggest it; and I really believe [fol. 139] it would meet the demands of the shippers and facilitate the movement of stuff to this market. We cannot dictate his handling or route when we handle his goods. I feel that the proposed route will be a shorter route. We buy very little on the Eastern Shore. We handle most of

the shipments from that territory on consignment. They are shipped to us on consignment, to be sold for the shipper's account. We handle considerable goods fom the Eastern Shore. I feel that there is enough goods produced on the Eastern Shore to warrant another ferry route. I base that opinion from our own records of tonnage and the number of truckloads which we handle during the season of the various commodities shipped.

We have had for sale at our store as many as ten or twelve truckloads of produce of various kinds in a day. Our season runs from around about the middle of April until possibly the middle or latter part of July before there is a close-down. Or course, there is some movement all the year round; but we can approximate it as an average of three or three and a half truckloads, containing possibly two and a half or three tons per truck, every day for the whole season. Of course, some days are much heavier than others. In the movement of this produce, speed is very important to us. That is on account of the very perishable nature of many of the shipments we handle—for instance, asparagus. That is picked and cut in the evenings—the nights—and loaded to be sent to market for the early morning market trade; and, if we should not meet the market on account of delay in the ferry service, it would necessitate carrying those goods over, possibly, until another day's market, which greatly deteriorates the condition of the goods, as well as their value. When we sell those deteriorated goods, we transmit less money to the farmer than if his goods come in in good condition. So his receipts depend upon the amount of money we get for his goods. His receipts and revenue depend upon the condition in [fol. 140] which we receive the goods and the amount that we are able to realize for them. It would be in his interest to have the goods come in here in good condition.

Cross-examination:

Most of the trucks now come through the present ferry service from Claiborne over to Annapolis. If the new ferry service is established, that possibly would not use that route any more, speaking for the lower section of Virginia, because it would expedite the movement to such an extent that it would be more to their advantage to use the new ferry service instead of the old. To the extent that

the new ferry would gain by that operation, to the same extent the old ferry service would lose. I do not know what effect that might have on the present operation of the existing ferry service.

By Mr. Perlman:

A. If there were service between Kent Island and Claiborne—and additional service to the one now established—that would cross the Bay every half hour, would that be of any assistance to the situation here in Washington?

A. At what periods would they cross, sir?

Q. Every half-hour.

A. At every half-hour?

Q. Yes.

A. And they would land on this side where?

Q. At Annapolis—the same place they do now.

A. I don't think so, on account of the congested areas which they would have to come through to meet that point of origin.

Q. As I understand your testimony, the truckloads which you now receive come over the existing ferry service?

A. They do, yes.

Q. And, if there were a ferry service in addition to that one, which would start at a point higher up on the Eastern Shore, on Kent Island, and reach Annapolis every half-hour, would not that be of some assistance?

A. That would take care of the northern points to a great extent; but it would not affect the lower Peninsula in any way, I think.

[fol. 141] Q. It is true, is it not, that you can travel faster on land than you can on water?

A. Yes; I imagine you can.

Q. And, if it were true that they could reach the upper point and cross the Bay in a shorter time than they now do, would that not be of some assistance to the Washington situation?

A. It would be; but I do not believe that service could be maintained to make quicker delivery than the proposed plan that is being discussed at the present time, on account of the congested areas in the small towns through which you have to come. You know, the Virginia laws are very rigid as to speed, and I do not think that would expedite

the handling of goods to any extent at all. I do not think it would be as good as the proposed service of the Chesapeake Beach ferry. I don't know if it would be an improvement over the present situation. Of course, I am not exactly familiar with the lay of the land in this section—that is, as to every point down in that section. But I know that the existing ferry has not given the service we really should have gotten in order to move the stuff as fast as possible. But, if there was a half-hour service and they could make up the additional time by land travel on the other side, of course, it might work to our advantage.

Redirect examination:

I have an idea where Kent Island is.

Examiner Molster: What is the ideal time for delivery of produce at your establishment in Washington?

The Witness: I should say around about eleven or twelve o'clock at night and one o'clock in the morning.

Examiner Molster: It would not be necessary that the traffic move over to Chesapeake Beach at night in order to get there at that time?

The Witness: Not necessarily. If they could begin the movement sufficiently early in order to reach us at that time, it would be perfectly satisfactory if we received them at night.

[fol. 142] Examiner Molster: You do not understand that there is to be such service by this ferry?

The Witness: I do not understand that; no, sir.

J. Spence Howard testified as follows:

Direct examination:

My name is J. Spence Howard, civil and consulting engineer, Baltimore, Md., and Saint Marys County, Maryland. I have been Chief Engineer of the Chesapeake Beach Railway since 1910. So far as I know, during that time, I have handled all the construction work that they have undertaken. I have worked in connection with this projected ferry now under consideration. I made a complete survey of the property on the Eastern Shore and the property on

the Western Shore, and prepared plans and estimates on the cost of the piers and wharves and the necessary expenditure on both sides of the Chesapeake Bay. I also prepared maps showing the distances between the various points. I prepared the estimate of cost from actual experience in doing work of this kind in this particular section; that, to the best of my knowledge, it is accurate and complete and, I think, will cover the necessary work to put in operation these ferry boats from one side of the Bay to the other. I am prepared to vouch for the accuracy of Sub-Exhibit No. 17. I also prepared an exhibit for presentation here, which is marked Sub-Exhibit No. 2 to the questionnaire return, consisting of a map of distances. We checked these distances in every way possible. We even had them checked over on the state road maps by automobile, and, as far as I know, they are as accurate as it is possible to obtain them.

By Mr. Ames:

Q. How far will it be from the entrance of the Annapolis ferry to the entrance over the proposed ferry?

A. About 30 miles.

Q. Now, do you know how far it is from the Claiborne ferry entrance to the one we propose on Trippe's Bay?

[fol. 143] A. It is 47-½ miles from Claiborne to Cambridge. It is between 11 and 12 miles from Cambridge to Hudson, the terminus of our ferry on Trippe's Bay. It is 15.75 land miles or statute miles, and 13.7 nautical miles across the Bay in connection with the proposed ferry.

Cross-examination:

I did not assemble any estimates of the cost of the boats that this ferry company proposes to use. That is mechanical work, and I did not have anything to do with that estimate whatever. I had all the construction work and the building of wharves and piers, on which I made the estimates, but not on the boats.

Redirect examination:

I am familiar generally with the traffic conditions in the City of Annapolis, in so far as motor vehicle traffic is concerned. The streets in Annapolis are exceedingly narrow.

There is no parking space or landing space at the ferry. They have to park up the streets. At times the congestion is such that people going there cannot even get on the ferry.

HUGH HORN testified as follows:

Direct examination:

My name is Hugh Horn, Washington, D. C., consulting engineer. I prepared a statement of estimated cost of operation per annum, which is designated as Sub-Exhibit No. 9 in this questionnaire return. In the way of construction and railroad engineering and some of this work, I have had about 40 years' experience. I have made some similar calculations in other parts of the country. I am prepared to vouch for the accuracy of this calculation to the best of my knowledge and ability.

Cross-examination:

Mr. Fox testified that the horsepower of the engines he would use in the boats was twenty-four hundred. He meant twelve hundred horsepower each providing for two screws. [fol. 144] On the information they gave me as to what those boats were, I made up this statement. I estimated $5,000 a year for maintainence and incidentals, by taking the customary figure, of 10 per cent of the operating expenses on new equipment. I do not know what the actual experience has been in operating ferry service across the Chesapeake Bay. I made no attempt to find out what the actual experience has been over those routes by the ferry companies. These figures are based on the ferry boat that Mr. Fox proposed this morning, allowing for the difference in speed; that is, the power is based on that, allowing for the differences in speed. None of these figures are based on actual experience of any ferry company. The cost of the crew is taken from the Cambridge & Philadelphia ferry, and the cost of fuel, of course, is taken according to the horsepower is ample.

Examiner Molster: Does the estimated cost of this project include an item for dredging?

The Witness: Yes, sir.

Examiner Molster: Have you in your estimated operating expenses included any item for preserving the channel?

The Witness: No.

Examiner Molster: In your opinion, it won't be necessary to dredge and re-dredge from time to time?

The Witness: There is considerable difference of opinion on that. That has not been considered. There is no allowance in exhibit No. 8 for depreciation. That was taken care of in the financial document, I think.

Mr. Perlman: The only table I see here (indicating) says "excludes depreciation", in exhibit No. 8.

Mr. Fox: There is no depreciation including in this table.

A. It is just an operating statement. Depreciation in terminals depends greatly on your class of construction.

By Mr. Perlman:

Q. Did you prepare any of these other exhibits, Mr. Horn?

A. Yes. I think I prepared an itemized statement of pier [fol. 145] construction. But Mr. Howard handled that—the estimate on it.

Q. He was an engineer. That is the reason I did not ask him about that. That is Exhibit No. 10. Did you prepare that?

A. No; I did not have anything to do with that.

J. Spence Howard was recalled and testified further as follows:

Examiner Molster: Mr. Howard, you have been previously sworn in this proceeding.

Will you give us your opinion as to the likelihood or necessity of the proposed 12-foot channels, to be established in connection with this operation, being kept open by dredging and re-dredging from time to time?

The Witness: I have been into that pretty thoroughly, and I consider that at Chesapeake Beach we have enough depth not to require re-dredging. I base that on the fact that we rebuilt the old pier which we had at Chesapeake Beach some six years ago. Steamers used that pier, and it was never necessary to do any re-dredging. For a distance of 12,000 to 15,000 feet it was marl and sand, and that does not refill.

The about 150,000 yards of dredging included in my estimate at Cheasapeake Beach is, I think, very ample to cover all the dredging which would be necessary there. I do not believe there would be any dredging there for a long period of years.

Now, on the Eastern Shore my estimate includes an additional 50,000 yards of dredging. I did add 50,000 yards because of the possibility of trouble for a year or two. I also included sheathing for a short distance where we enter the mouth of Covey Creek. That is one point where I could get information that it would be necessary to do that kind of work. I talked with some of the Government engineers, and they pretty well agreed with me.

Examiner Molster: Then, do I correctly understand that you have included in the original cost an expense for [fol. 146] re-dredging within the next year or two?

The Witness: On the Eastern Shore I did—50,000 yards. In other words, where the water at the present time is low at the entrance to the creek.

Examiner Molster: Along the west shore your dredging will come in water not much more than two or three feet deep; will it not?

The Witness: No, sir. The water where we start dredging is about 8 feet.

Examiner Molster: And in your study of this matter have you given consideration to the action of the tides and currents in the Chesapeake Bay?

The Witness: Yes, sir. I judge of that by the old pier. I do not think you can get any better example than that. The old pier has been there for a good many years. It used to be up at the railroad station, where we propose to build this pier. I helped to re-build that pier in 1923, and drove new piles. We never had occasion to re-dredge it. We had steamers from Baltimore that used that pier and it is pretty near half a mile long. The proposed pier is longer than the one now existing there.

TESTIMONY ON BEHALF OF INTERVENER

JOHN M. DENNIS testified as follows:

Direct examination:

My name is John M. Dennis, Vice President, Claiborne-Annapolis Ferry Company and President of the Union

Trust Company of Baltimore. My address is Riderwood, Md.

Q. The Claiborne-Annapolis Ferry Company is substantially the child of the State of Maryland.

In 1916, after a number of financial failures in the operation of a ferry between Annapolis and Claiborne, the Governor of Maryland offered the sum of $50,000 as a bonus to any corporation that would inaugurate a regular ferry service between Claiborne and Annapolis. This proposition [fol. 147] was accepted by a New York syndicate, and they raised the sum of about $130,000 in money, out of which they purchased a boat named the Emerson C. Harrington.

This boat had a carrying capacity of 40 automobiles and probably 500 passengers. It operated for a while. People did not like it. And what the public don't like, they won't use.

So that went into—not quite insolvency; but they turned the boat over to Governor Harrington and told him he might make out of it what he could.

At that time there was a mortgage still resting on that boat of, I think, $48,000, and as against that mortgage there was a continuing state subsidy of $18,000 a year.

Governor Harrington came to me, as President of the bank, and asked me if I would not help out in the ferry situation; and, after looking into it for quite a while, I told him that I did not believe the public would use a boat of that type, which was a side-loader and discharger, and it was very inconvenient for an automobile to go on the boat, and dangerous for trucks; but that, if he would go further and build a boat that was a boat, we would help out.

This resulted in the ferry company building what is now the "Ritchie." As to that boat, from the time it got on, business began to increase, and subsequently we have bought or, rather, built the "John M. Dennis."

The two large boats we have in operation now will carry about 90-odd automobiles and about 1500 passengers. They make six round trips a day during four or five months of the year between Annapolis and Claiborne.

But we have found, in connection with the operation of those boats—and with no competition or suggested competition—that an hour and a half on the water is too long; that time is more essential in transportation than distance. And you cannot run those boats—even the "Dennis", which

I think has about eighteen hundred horsepower, I do not [fol. 148] think can make much better time than an hour and twenty minutes between Annapolis and Claiborne.

This has caused our expenditure—not all completed as yet—of $150,000 or $160,000 digging into Kent Island and making landing places over there, which will make the distance about 6-1/2 or 7 miles.

This summer we expect to establish a service of every hour on the hour, and next summer we expect to run every half-hour on the half-hour.

There is great economy to us in the shorter distance, because one boat performs all of the functions of the two boats. It doubles our carrying capacity. I might say that these carrying capacities that I will read to you are determined as follows:

Passengers, the number permitted by Government licenses issued to the boats. Vehicles, the number that practice has shown that the vessels can reasonably carry. In rush periods each vessel has actually carried from five to nine more cars than the figures used.

Taking our service now the maximum carrying capacity with the present equipment, six round trips a day, we can carry between Annapolis and Claiborne in a year 431,430 automobiles and 7,446,000 passengers.

Now, between Kent Island and Annapolis, with the same vessels we can carry 862,860 automobiles and 14,892,000 passengers.

Now, between Annapolis and Claiborne and Annapolis and Kent Island, as per schedule proposed upon completion of the Kent Island terminal, the "Harrington" and the "Dennis" running to Claiborne and the "Ritchie" to Kent Island, the total carrying capacity would be 600,000 automobiles and 10,074,000 passengers.

This situation from a traffic standpoint is a very peculiar one. This Eastern Shore traffic all runs into a dead end. This whole business is composed of Eastern Shore people who want to go over and visit somebody on the Western Shore or somewhere else, and people from somewhere else who want to come over and visit people [fol. 149] on the Western Shore.

There is no part of the traffic which we serve like that between Baltimore and Wilmington, which would carry on to Philadelphia and other places. When you get over

here, you go to any one of these cities or places, and there you stop.

You have no chance, in all probability, of materially increasing the population on the Eastern Shore, because it is an agricultural and residential part of the country, where manufacturers will either float to Norfolk, on the one side, or go to Baltimore, on the other side.

And what these gentlemen amiably propose to do is to put competition into a traffic problem where the expected increase of population and business cannot occur, and where it is going to split up and divide the business that already exists. The four counties that they will work in, it is true, only contain 102,971 persons, according to the Census figures of 1920.

Q. And Mr. Fox, I think, stated that there were 60,000 people in the two Virginia counties which ought to be added on to give the total population of the territory served. Suppose you add 60,000 people. What would you then say?

A. I know of no expansion in area, territory or traffic that is possibly either for them or for us.

The history of this ferry business in Maryland has been, frankly, very disastrous financially. One line of boats that runs to Tolchester has been in operation, I think, for forty-five or fifty years. They have never done anything to make money. They are wearing out their present equipment, and when that is gone nobody has any anticipation that they will go into business again.

The Pennsylvania Railroad had a ferry service, as you know, for many years to Love Point. They operated that without extending the service in any way. And all the other boats in service on the Chesapeake Bay went into receivership.

Q. From where to Love Point?

[fol. 150] A. From Baltimore.

Q. And Love Point is in what county?

A. In Kent County, at the northern tip of it.

There were a number of rich men, including Mr. Michael Schloos, a millionaire, who started a ferry from Baltimore to Queenstown and lost every dollar they put into it. Every predecessor of the ferry company went broke.

Q. From what point to Queenstown?

A. They went from Bay View, which is about 10 miles south, near Bay Shore. At Sand Point they purchased three boats.

Q. And Queenstown is in what county?

A. Kent County. They went into the hands of a receiver about a year ago. They operated for about a year and a half; but the last part was irregular. They did not furnish regular service.

And the State of Maryland has recognized, apparently, the hard work you have to do in this ferry business, and they have appropriated, to every ferry line that will run, a thousand dollars a mile, which is based on the cost of maintenance of a mile of improved road in Maryland.

Now, I am vitally interested in this thing, in the way of loaning these people money. This ferry company is not out of debt. It owes, I think, about $280,000 on the last boat they built. I think it owed about $23,000 for the construction of this new terminal on Kent Island, and it will owe about $60,000 more before we get through with it. And it is a very hard thing to get banks to lend money on ferry property, because the financial history of them has not been inviting.

Now, to complete this picture and put this million dollars into this competing line, frankly, from a business standpoint I cannot see where it would do them any good, and it would do us tremendous harm.

In the first place, their figures, I am sure, are too optimistic. In their prospective set-up, as to number of cars, to be handled for the first year—which would — 1931—they [fol. 151] estimate that they will handle 91,250 cars. Well, if they did that, it would be more cars than the total business which we had in 1929, which was 76,352 cars, and in the year 1928 we handled 64,384 cars; and the increase in business was due to the putting into service of the new Diesel engine equipped "John M. Dennis." It was a new fad, and away it went.

In the matter of passengers, I see that for the same period they estimate that they will carry 182,500. We carried during 1929 269,950 passengers. We are perfectly willing to give you all our figures. There is nothing private about them. They all go to the Public Service Commission. And, if all of the estimates that they have made

here could be true, we would not have anything to carry, because you cannot create any business down there at all commensurate with your figures. It "ain't" there!

Now, there has been a good deal of emphasis put upon this matter of 24 or 25 or 30 miles difference in distance. I think the class of service, the frequency of service and the cost of service are of more vital effect on a community and on the business you will do than a question of 25 miles or even 30 miles difference in distance.

People do not want to wait for a boat. That is natural. When they get to Annapolis, they want the boat right there, and when they get to the other side they want to be discharged as quickly as possible. And the law of Maryland is that you can legally run an automobile 45 miles an hour.

But I think this is a very serious proposition to the public—not only to the Maryland people, but to the Washington people. We have spent a great deal of money in building or buying the most modern equipment we could purchase for this service. This last boat, the "Dennis," has Diesel engines, built all of steel, and would cost today $550,000 to replace. And I cannot see the public necessity for any additional equipment at this time.

Now, may I trespass just a moment more? This subject is not ever quiescent or quiet. The question of the Eastern [fol. 152] Shore business is like the flowers which bloom in the spring. It comes each year.

This year it was a bridge proposition. The Governor of Maryland has declared publicly that a bridge to the Eastern Shore must be built. The cost of this bridge is estimated at from ten to forty millions of dollars. It will be 8-3/4 miles over water—probably the most stupendous engineering effort of the kind ever attempted.

There were some dissenting people, who thought it was very foolish to do this. So he very wisely appointed a commission of eighteen men; and that is about as representative a body of men, I think, as can be gotten together in Maryland. Mr. Griswold is Chairman of it. He picked them up from different parts of the State; and it is a thoroughly representative body of men who have gone to work, with these instructions: to investigate thoroughly all features of cost and all matters appertaining to the interchange of produce, vegetables, and other business between

the Eastern Shore of Maryland and the Western Shore of Maryland and make a report on this situation.

I happened to look at the Wall Street Journal the other day—there is always something to worry the ferries—and found this little article. Here is the caption, "Flying Ferries." (Reading.)

"The Air Ferries, Ltd., is serving the business people and pleasure-seekers of California with an aerial taxi service across the Bay between San Francisco and Oakland, California. These flying ferries are gaining in popularity, for when the Bay route was inaugurated it had but three Keystone-Leoning amphibians. After being in operation for one month the company is arranging to add eighteen to its fleet."

So there is more transportation across the Bay.

I want to leave with you an impartial map, which is furnished by the State Roads Commission of Maryland and prepared by the Maryland Geological Survey, showing all the different roads and information of that kind. That map shows the existing service maintained by the Claiborne-Annapolis Ferry Company and the Kent Island Company also. That is delineated in red lines.

[fol. 153] (The map referred to was received in evidence marked "Intervener's Exhibit No. 10, Witness Dennis." This appeals here as Exhibit No. 10.)

Since 1916 and up to the present time, the only dividend paid by the Claiborne-Annapolis Ferry Company was one dividend amounting to a total of $15,000.00. Outside of that, it has never distributed one dollar in money to the owner of any stock or security of the company, except its interest-bearing securities—mortgage notes. The ferry that exists between Baltimore and Tolchester also receives a subsidy from the State. The ferry company from Bay Shore to Queenstown, which went into the hands of a receiver last year, also received a subsidy from the State. The Claiborne-Annapolis Company gets a subsidy of $18,000.00 a year, and an additional $3,000.00 for something which I do not know anything about; but their total subsidy is eighteen and three, being twenty-one thousand. The service to Kent Island will begin May 15th. This 1930 season we will furnish a service down there every hour on

the hour. Next season we hope to furnish service every half-hour on the half-hour. The total carrying facilities offered in the year 1929, by the Claiborne-Annapolis Ferry Co., based on the actual number of trips made by each vessel, were as follows: 216,445 automobiles and trucks and 3,570,600 passengers.

That was during the year 1929. That is the total capacity offered by the Claiborne-Annapolis Ferry Company, based on the actual number of trips made by all of the boats in service during the year. The traffic actually carried during 1929 was:

Vehicles	76,352
Passengers	260,950

A comparison of the traffic carried with the facilities offered during the year 1929 indicates that on an average the vessels ran 35.27 per cent loaded as to vehicles and 7.31 per cent loaded as to passengers. Of the facilities for vehicles offered during 1929, not quite 36 per cent were availed of—that is, were actually used, on an average.

[fol. 154] Q. Mr. Dennis, referring to the distances which were given in the application filed by the Chesapeake Beach Railway, they do not, I understand, take into account the new service which your company is arranging to establish?

A. Oh, I think most of the claim is based on the City of Cambridge being a shorter distance by 24 miles; and 24 miles on the Eastern Shore, with the level country and good roads down there, in my humble opinion, is not very essential.

Q. Now, Mr. Dennis, how much time do you calculate will be saved in the Kent Island operation as compared with the waterhaul of the proposed Chesapeake Beach service?

A. Well, it takes about an hour—it takes an hour and thirty-five minutes, which is our schedule, from Annapolis to Claiborne. It won't be more than 35 minutes from Annapolis to the new terminal on Kent Island, which means an hour less on the water.

Q. Now, the water distance of the proposed Chesapeake Beach ferry, as I understand it, is 15.75 land miles. What is your estimate of the time it will take to make that trip?

A. When we built the "Dennis," we asked Fairbanks, Morse & Company to build us engines of the maximum speed capacity; that we wanted to make Claiborne in an hour, and we were willing to pay the price.

As you know, those engines cost about $112,000—of the class that went into the "Dennis"—and our engineers stated to me that it was wholly impracticable to put engines any heavier than what they put in the "Dennis," because forcing a hull with more power would cause bulges and rib troubles and other troubles, and you could not drive a 60-foot bottom boat much faster than about an hour and twenty-five minutes between Annapolis and Claiborne. It has done that, but it had not done any better than that. The distance between Annapolis and Claiborne is about 18 and a fraction miles. It might be 18.7, 19 or somewhere in there. That, of course, sometimes depends on the tide. At low tide, for instance, they have to go down [fol. 155] further at Bloody Point.

A. I think the trip from Chesapeake Beach to Trippe's Bay, if they had the same engines we have and built by the same people, could be made in an hour and a half. But in a ferry service like that, if you break the hour and say "An hour and thirty minutes," you might as well say an hour and forty minutes or an hour and fifty minutes. If you were going to make six trips a day, there would not be any vital advantage in faster time than that.

A. We ought to be able to cross the Bay from Annapolis to Kent Island in 35 minutes with the slowest boat. We ought to be able to go across there in 25 minutes. That would mean that our trip would be approximately one hour less than the water trip of the Chesapeake Beach ferry. Whatever extra distance there might be in a trip for those who live in the lower counties would be more than made up by the shorter distance across the water? It figures this way: All that traffic comes through the hub at Easton, Md. Now, it is about 17 miles from Easton to Claiborne, and about 38 miles from Easton to this new place, where we are fixing the wharf on Kent Island.

Now, you have a distance of 17 miles as against 38 miles, which makes 20 miles. They save an hour on the water and are 20 miles longer on land. They ought to run that 20 land miles in 30 minutes. The proposed service will hamper the efforts of the Clairborne-Annapolis Company to give ade-

quate service. Any depletion is a very serious matter to us. It costs us just as much to run a boat full as it does to run it empty. As a practical matter, if they took away 50 per cent of our traffic, it would cause us either to suspend service or to go broke. We would have to do one or the other.

I do not mean, by suspension of the service, all the service. I mean that we would have to limit our service to very much less service than we are giving now. Our business takes in seven of the nine counties on the Eastern Shore. Of course, the five northern counties are directly and immediately tributary to the Claiborne facilities. As to the [fol. 156] other counties, there is an advantage in there where they propose to put their terminal, but the northern part gives us the advantage in distance, and the southern part gives them a slight advantage in distance. There are some right good sized towns in those upper counties. Caroline County has 18,652 people in it. Talbot County has 18,306 people; Queen Annes County 16,001 people. They are all 1920 census figures. In Caroline County you have Denton. In Dorcester County you have Cambridge. In Queen Annes County you have, I think, Sutlersville; Centerville, in Queen Annes County, which is a good sized town. In Somerset County you have Princess Anne; in Talbot County you have Easton.

Cross-examination:

The nearest points between the Annapolis and Kent Island are 4½ miles. It is 6½ miles the way we are going to run. We can make that in 25 minutes.

Q. Why do you think it will take us an hour and a half to go 15 miles?

A. I think you will find from experience, with the boat you have, that that will be about right. You have open sea down there. You have a different body of water than what we have, even across Kent Island or down around Bloody Point. There are different water conditions. We are going to start the Kent Island Ferry with the "Ritchie"—one boat. We expect to maintain a half-hour schedule next year with three boats. We decided to put this Kent Island operation in because we saw that it was a failure to try to carry passengers in an hour and a half across Chesapeake Bay.

It was too long a time. We thought it was advisable to get a shorter route, and that reduces operating expenses. I felt that the future of this ferry rested on getting a shorter route. Frankly, I cannot see where any more business is to come from. We built a boat because at that time we had not made up our minds that we had to have a shorter route, and we built this boat to take care of the longer route. We want to establish a shorter route to operate it cheaper than the longer route. I am afraid the public will abandon [fol. 157] our longer route. It is 37 miles by road from Kent Island to Claiborne. You know, the road goes around almost a perfect circle that way. You would have to add 17 to 38 miles together. That would be 55 miles.

It may be that we got twenty-three thousand dollars subsidy from the State instead of $21,000. I am not sure. Our total operating revenue was $369,509.18 for 1929. Total operating expenses, $174,518.60. We purchased our new boat, partly out of profits. It is not paid for yet.

Examiner Molster: The annual report for 1928 will be marked Exhibit No. 11, and the annual report for 1929 will be marked Exhibit No. 12.

(The documents referred to were received in evidence, marked, respectively, "Applicant's Exhibit No. 11, Witness Dennis," and "Applicant's Exhibit No. 12, Witness Dennis," and appear here bearing the same numbers.)

So it must have been about two years or a year and half ago that we first contemplated the Kent Island route—something of that kind. The Eastern Shore being a dead-end proposition. An automobile cannot go to Norfolk, because they charge $8.50 ferry charge. I do not know where automobiles go after they leave the ferry. I have no way of knowing—except, of course, by the predominance of Maryland licenses. We connect with the W. B. & A. Railroad at Annapolis. According to the way they place the cars, it is anywhere from 60 feet up to two or three hundred feet from the ferry.

Q. And you handle some business in connection with them?

A. No—except that they deliver us some passengers.

Q. I mean freight.

A. No freight that I know of. You know, there is no freight business on our line, except maybe $10,000 a year.

Q. Have you ever attempted to develop any freight business?

A. Our freight business is developed through the trucks. They put freight in trucks, and we get it that way.

[fol. 158] Q. Now, Mr. Dennis, as I sum up your obections to this plan, they can be divided into sort of two prongs. One is that you are afraid we will go broke, and the other is that you are afraid you will go broke. Now, which is your predominating position?

A. Well, I think the public would be the sufferer, because certainly, if you went broke, it would not help anybody, and, if we went broke, it would hurt everybody who is now traveling between the Eastern Shore and Annapolis.

Q. Are you afraid we will take business away from you?

A. I know you will.

Q. And you are afraid you won't be able to develop any new business to take its place?

A. Yes, sir.

Q. Are you afraid we are in a bad business position for ourselves?

A. Yes, sir. Do you want me to speak honestly?

Q. Certainly.

A. I think it is rotten.

Q. Now, why do you think it is rotten?

A. I think it is like a pie. There is not enough to go around and be divided between more than one.

I have struggled ever since 1922 in the practice of every economy that I can think of, and have been able to pay but one dividend of a total of $15,000.00, and had to plow back all the rest of our earnings to buy equipment to give the public service, because, if you don't give the public service, your business certainly drops off terribly. I would not think that is hot business. It is pretty tough business.

Q. Last year you made $175,000.00; did you not?

A. That is "paper" stuff. You have to pay for repairs, and so on. If you were to get away, on two boats, with an average of $55,000.00 per year for repairs, you would do as well as we are doing. These Government inspectors can see things the matter with boats that nobody else would [fol. 159] dream about! Then you have to put your boats in dry-dock and do what they say to do.

Q. Those things all come under the head of operating expenses; don't they?

A. No, sir. You don't charge, on that statement, repairs to vessels to operating expenses. Of course, they come in the total of operating expenses, but they are segregated.

Q. They are included in the items which you read into the record; aren't they?

A. Yes.

Redirect examination:

The figures for 1928 and 1929 which have been admitted in evidence, are very different than the figures from 1922 up to 1927. We had a very hard time to finance what we were doing. If it had not been that one of our boats burned up, we would have been in a bad way. We got $38,000 insurance to help us out of the hole. Some of our friends got together and helped out. I have many personal friends of my own in this thing—I hope they get out all right—and they helped when we were on the rocks for about six or seven years.

I think there were three years between 1922 and 1927 when our expenses were considerably over our income, and that was without allowing for depreciation and other fixed items which do not appear in an operating statement. 1928 and 1929 were the only two good years we ever had.

Cross-examination:

We bought the "Governor Ritchie" in 1924 or 1925, I think it was. You can tell by the statement of earnings, because, as soon as we got more equipment, people did not have to wait two or three hours for a boat, and our earnings increased.

TESTIMONY IN REBUTTAL

EUGENE FOX was recalled and testified further as follows:

[fol. 160] Direct examination.

By Mr. Ames:

Q. Mr. Fox, the Examiner asked a question which, I am afraid, has left the record somewhat confused as to your

schedule. He indicated that it would possibly be necessary, to haul fruit or produce from the Eastern Shore to Washington, to make the trip across the Bay at night.

Now, will it be your purpose to accommodate your schedule to the business?

A. Yes, sir; and to operate at night, when necessary, for that particular traffic. In making our estimates we took their schedule as a measure or guide to start from. They are now hauling this produce from the Eastern Shore to some extent.

O. K. Elmer B. Collins, for the United States.
O. K.
Jonathan C. Gibson, Atty. for Chesapeake Beach Ry. Co. Nelson Thomas, G., Atty. for Interstate Commerce Comm.

ORDER

Counsel for all parties having agreed thereto, the foregoing narrative of testimony is hereby approved.

Jesse C. Adkins, Justice Supreme Court, D. C.

Dated this 22nd day of September, 1931.

[fol. 161] IN SUPREME COURT OF THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, Frank E. Cunningham, Clerk of the Supreme Court of the District of Columbia, do hereby certify the within and annexed pages No. 1 to 156, both inclusive, to be true and correct copies of exhibits introduced in evidence in cause No. 52,254, in Equity, wherein the Claiborne-Annapolis Ferry Company is plaintiff and the Chesapeake Beach Railway Company, et al., are defendants.

And I do further certify that the within and annexed summary of evidence adduced before the Interstate Commerce Commission in the matter of the Application of the Chesapeake Beach Railway Company, Finance Docket No. 8013, (which evidence was also introduced in said cause), was duly approved by Honorable Jesse C. Adkins, Associate Justice of the Supreme Court of the District of Columbia,

on September 22nd, 1931, as the same remains upon the files and of record in said Court.

In testimony whereof I hereunto subscribe my hand and affix the seal of said Court at the City of Washington in said District, this 12th day of October, 1931.

Frank E. Cunningham, Clerk. (Seal Supreme Court of the District of Columbia.)

[fol. 162] [File endorsement omitted.]

BEFORE INTERSTATE COMMISSION

In the Matter of the Application of the CHESAPEAKE BEACH RAILWAY COMPANY for a Certificate of Public Convenience and Necessity for the Extension of its Line by Establishing and Operating a Ferry for the Transportation of Passengers and Property Between Chesapeake Beach, in Calvert County, Maryland, Across Chesapeake Bay, and a Point on Trippe's Bay, in Dorchester County, Maryland.

APPLICATION—Filed Dec. 26, 1929

[fol. 163] [Title omitted]

To the Interstate Commerce Commission:

The Chesapeake Beach Railway Company, hereinafter called the Applicant, hereby files its application and respectfully shows to the Commission:

I

The exact corporate name of the Applicant is "Chesapeake Beach Railway Company."

II

Applicant is a carrier by railroad subject to the Interstate Commerce Act and is engaged in the transportation [fol. 164] of passengers and property in interstate commerce, operating a line of railroad extending from Chesapeake Junction in the District of Columbia to Chesapeake Beach in Calvert County, Maryland.

III

It is proposed to establish and operate, either directly or through a wholly owned subsidiary, a ferry for the transportation of passengers and property between the terminus of its said line at Chesapeake Beach, across Chesapeake Bay, and a point on Trippe's Bay in Dorchester County, Maryland.

IV

Applicant proposes to finance said extension by an issue of its corporate bonds in the sum of $750,000., secured by a first lien upon all its property.

V

The present and future public convenience and necessity require the establishment of the proposed ferry so as to afford a direct route by rail and water between the City of Washington and surrounding territory and the eastern shore of Maryland and also provide a direct route for the transportation of automobiles and other vehicles between such points.

VI

The name, title and post-office address of the official to whom correspondence in regard to this application is to be addressed is: Eugene Fox, Executive Vice-President, Chesapeake Beach Railway Company, Barr Building, 910 Seventeenth St., N. W., Washington, D. C.

[fol. 165]

VII

Applicant was incorporated under the laws of Maryland on March 7, 1896, and by its certificate of incorporation was authorized to and thereafter did acquire all the property, rights, privileges and franchises of the Washington & Chesapeake Beach Railway Company, a corporation organized under and by virtue of the General Laws of the State of Maryland and Chapter 301 of the Acts of the General Assembly of Maryland, passed at its January Session, 1892, which included the right to operate a continuous line of railway from the District of Columbia to Chesapeake Beach and to own and employ steamboats or other vessels to connect the said railroad with other points by water communication.

VIII

The making and filing of this application was authorized by resolution of the Board of Directors of the Applicant, adopted at a meeting of said Board held in the City of Washington, District of Columbia on October 15, 1929.

IX

The proposed extension of Applicant's line will be situated in Calvert County, Maryland, and Dorchester County, Maryland. The western terminus of the ferry will be in the incorporated town of Chesapeake Beach, Calvert County, and the eastern terminus will be located on what is known as the Thomas J. Seward Farm on Trippe's Bay in Dorchester County, at a point about ten miles west of, and on the State road leading to, the Town of Cambridge in said County. The distance between said termini is sixteen land miles.

[fols. 166-168] X

Applicant files herewith a map showing its present line of railway and the proposed extension thereof, the surrounding territory and all common carrier railroads and ferries therein, which said map is marked Exhibit "A."

Dated Washington, D. C., December 9, 1929.

Chesapeake Beach Railway Co., by Eugene Fox, Executive Vice-President. Geo. E. Holmes, Counsel.

Duly sworn to by Eugene Fox. Jurat omitted in printing.

[fol. 169] Before Interstate Commerce Commission

Finance Docket No. 8013.

In the Matter of the Application of the Chesapeake Beach Railway Company, under Paragraphs (18) to (21), Inclusive, Section 1 of the Interstate Commerce Act, as Amended, for a Certificate That the Present and Future Public Convenience and Necessity Require and Will Require an Extension of its Lines by Establishing and Operating a Ferry for the Transportation of Passengers and Property Between Chesapeake Beach, in Calvert County, Maryland, Across Chesapeake Bay, and a Point on Trippe's Bay in Dorchester County, Maryland

Return to Questionnaire

To the Interstate Commerce Commission:

The Chesapeake Beach Railway Company (hereinafter called "the applicant"), having made application to the Interstate Commerce Commission, under paragraphs (18) to (21), inclusive, of Section 1 of the Interstate Commerce Act, as amended, for a certificate that the present and future public convenience and necessity require and will require an extension of its line by establishing and operat- [fol. 170] ing a ferry for the transportation of passengers and property between Chesapeake Beach in Calvert County, Maryland, across Chesapeake Bay, and a point on Trippe's Bay in Dorchester County, Maryland, a distance of approximately 16 land miles, all in Calvert and Dorchester Counties, Maryland, which application is filed in the office of the Commission in Finance Docket No. 8013, hereby makes return to the form of Questionnaire prescribed by the Commission's order dated December 26, 1929, and hereby affirms that notice of the application has been published in the form prescribed by the Commission at least once during each of three consecutive weeks in the Baltimore Sun and the Cambridge Daily Banner; that said newspapers are of general circulation in the Counties of Calvert and Dorchester, State of Maryland, which are the only counties and the only State in which the proposed extension will be situated; proof of publication marked Exhibit No. 1.

Preliminary Statement

The proposed ferry is intended primarily for the transportation of passengers and motor vehicles. As the questionnaire is not designed to elicit detailed information peculiarly pertinent to the present application, the following preliminary statement of the essential facts relied upon to support the application is submitted.

Under applicant's charter, it may among other things, engage in steamboat operation in connection with its rail lines. After a careful survey of the situation it has been determined that the addition of a ferry service will be a profitable enterprise in which the railway should engage and at the same time provide a service to the public which is a necessity and inconvenience. The supporting data will

appear in its proper place in the return of the questionnaire.

In order to finance this project the Railway Company asks authority to issue its first mortgage bonds in the sum of Seven Hundred and Fifty Thousand Dollars ($750,000.00).

[fol. 171] The Railway derives most of its revenue from passenger traffic. With the advent of the automobile and improved highways, the revenue from this source has for the past five years shown a steady decline, but this has to some extent been equalized by the increase in freight traffic due to the increasing population and business activities of the towns and communities served and applicant believes that the earnings of both freight and passenger traffic can be materially increased by the extension of a ferry service, the estimated net revenues from which will amount to five times the interest on the bond issue.

The service contemplates the purchase or construction of two automobile and passenger ferry boats, of a type designed to carry ninety-five automobiles on the main deck, with a capacity for eighteen hundred passengers on the saloon deck, at an estimated cost of $350,000.00 each.

The distance between ferry terminals is approximately sixteen land miles. It is intended to cover this distance in one hour, thus reducing the present time for vehicular ferry service across Chesapeake Bay, at any point, by at least one-half hour. This service will also evolve a system of transportation for the expeditious handling of passengers and vehicles, both in inter- and intrastate commerce, by rail, water and highway, and by highway and water, and will create a new and shorter route than is now available between the mainland on the western shore of Maryland and the rapidly developing industrial and agricultural territory on the eastern shore, better known as the Del-Mar-Va peninsula. This territory embraces the Maryland Counties of Dorchester, Somerset, Wicomico and Worcester, and the Virginia Counties of Accomac and Northampton. All of this territory is at the present time isolated from direct contact with the mainland of southern Maryland by the waters of Chesapeake Bay, except by markedly circuitous routes. This situation is graphically disclosed by the accompanying Exhibit No. 2 (Bay District Map).

[fol. 172] The proposed ferry service beginning at the present rail head of the Chesapeake Beach Railway, in

Calvert County, will connect at a point on Trippe's Bay in Dorchester County, on the Eastern Shore, with the paved state highway at a point near the Hudson School, approximately ten miles west of Cambridge City, Maryland, from which latter point paved highways radiate in all directions connecting Cambridge with the principal towns on the peninsula, thereby furnishing a shorter and more direct route for traffic by rail, and motor-propelled vehicles between the Del-Mar-Va peninsula, the National Capital at Washington, and the markets at Baltimore, Annapolis, Frederick, Hagerstown, and points west thereof. The highways described are shown on the accompanying official map of the Maryland State Roads Commission, Exhibit No. 3 (State Highway Map).

The proposed service will furnish a wholly new route to and from the territory described. The latest available figures of the United States Census Bureau July 1, 1926, show the population in the six counties enumerated to be 156,697.

In order to graphically illustrate the density of traffic on the principal highways on the eastern and western shores of Maryland shown on the State Highway Map (Exhibit No. 3) applicant submits a traffic map of Maryland prepared by the Engineering Department of the University of Maryland compiled from data based upon 12-hour traffic counts taken on an average of one day per month by the State Roads Commission.

This traffic map (submitted herewith as Exhibit No. 4) shows the principal towns on the eastern and western shores designated by key numbers. The density of traffic is shown on the traffic map by lines of varying width. The towns referred to by key numbers are designated, and the traffic counts upon which the lines illustrating density are based are shown in figures on Exhibit No. 14 submitted herewith, and hereinafter referred to.

[fol. 173] Up to about 1924 the industrial and agricultural development on the Del-Mar-Va peninsula showed very little increase and this condition has been attributed by Mr. William Taylor Medford, Assistant Director of the Traffic and Transportation Bureau of the Baltimore Chamber of Commerce, in the survey made by him May, 1928, to its isolated geographical position.

The nine Maryland counties on the eastern shore embrace 28 per cent of the total population of the State, outside of the metropolitan district of Baltimore.

The two Virginia counties at the apex of the peninisula have a population of approximately 60,000.

These two Virginia counties and the four Maryland counties of Dorchester, Wicomico, Worcester and Somerset constitute the principal territory to and from which the proposed ferry and the railroad will receive support. Included therein are the major shipping and jobbing centers, in the order of their importance, viz.: Salisbury, Cambridge, Princess Anne, Pocomoke, Crisfield, and Accomac. All of these towns are at present at a disadvantage by reason of having no means of transportation, whereby persons and property may be transported by automobile, bus, truck or rail, or by both, to and from their natural market and shopping centers, such as Baltimore, Washington, Frederick, and Hagerstown, and permit of the return of passengers the same day with any degree of convenience, as the present all-rail route and present highway routes are markedly circuitous. This is particularly true of Washington and points west or northwest. This situation is readily disclosed by the mileage table shown in the applicant's Exhibit No. 2.

It is expected that additional earnings will be derived from summer automobile tourist travel. Authoritative figures as to the extent of this particular traffic are not at present available, but it is evident, however, that a valuable source of new business may be created by the opening of this route through the highly historical part of the Old Dominion, which may be used one way as a part of a circle tour.

[fol. 174] The shortening of the water trip by thirty minutes via the proposed ferry, equated to driving miles on the highway at an average speed of 32 miles per hour, is equivalent to 16 miles gained in road distance.

As an illustration of the saving of mileage via the proposed ferry, attention is called to the Mileage Table shown at the lower right-hand corner of Exhibit No. 2, which indicates the following savings:

From	Cambridge	to	Baltimore	18 miles
"	"	"	Washington	36 "
"	"	"	Annapolis	10 "
"	Salisbury	"	Baltimore	6 "
"	"	"	Washington	24 "
"	Ocean City	"	"	24 "

Ocean City is the only city in Maryland on the Atlantic Ocean and the nearest seaside resort available to residents of the City of Washington. The saving of 24 miles each way, or 48 miles for the round trip, would bring Ocean City within 122 miles and thus make it available to motorists from Washington who desire to visit Ocean City, spend a reasonable time there in recreation and return to Washington on the same day.

In arriving at a fair average number of vehicles to be transported per day, applicant has used statistics shown by the traffic chart of the Maryland State Roads Commission (Exhibit No. 4). This survey shows an average daily movement of 780 cars to and from Station T-1. It can reasonably be assumed that all traffic shown at the latter station is destined for ferry service, as said station is but a landing fourteen miles distant from any town of importance. Using the 780 daily average as a basis of possible patronage, your applicant believes that approximately 32% or 250 cars have origin or destination in territory south of the Choptank River and would use the proposed ferry service by reason of the shorter distance (See Mileage Table, Exhibit No. 2).

The estimated revenue to be derived from the handling of automobile traffic is based on an average of $3.00 per vehicle per trip. This estimate is submitted as conservative [fol. 175] in comparison with the scale of tariff charges now on file with the Public Service Commission of Maryland by the Claiborne-Annapolis Ferry Company (Exhibit No. 13), which shows charges ranging from $2.50 for small passenger cars to $12.00 for loaded trucks.

The number of passengers to be handled is based upon the assumption that the cars handled will average two passengers each in addition to the driver. This is supplemented by an estimate of passengers to be handled from motor busses together with residents of the Eastern Shore territory who will be enabled by this new ferry service to visit the Amusement Resort located at Chesapeake Beach.

The estimated revenue to be derived from passenger traffic is based upon a charge of 50¢ per passenger per trip, compared with a minimum fare of $1.00 per round trip now charged by the Claiborne-Annapolis Ferry Company (See Exhibit No. 13).

In connection with the estimated revenues from passenger and vehicular traffic, attention is invited to applicant's Exhibit No. 7 submitted in connection with its answer to question No. 30. In this exhibit applicant has, as above stated, estimated that the average daily number of vehicles for the first year would be 250 and the average daily number of passengers would be 500, and has estimated an annual increase of 10% for the succeeding four years.

Applicant submits that this estimated increase of 10% per annum is exceedingly conservative compared with the steady increase of motor vehicular traffic on that part of the Eastern Shore which the ferry will serve, and particularly with the increase in traffic to and from Station T-1, as shown on applicant's Exhibit No. 14.

As pointed out above, the traffic to and from Station T-1 is solely in connection with the ferry service. Exhibit No. 14 shows an increase of 57% in the period 1926 to 1929 inclusive.

The foregoing estimate of revenue does not take into account any subsidy from the State of Maryland for the operation of a ferry. That State grants to the Claiborne-[fol. 176] Annapolis Ferry and the Tolchester Ferry annual subsidies of $23,000 and $21,000 respectively. These subsidies are at the rate of $1,000 per mile traversed by each ferry and represent the estimated annual maintenance cost of an equivalent number of miles of highway saved to the State by such ferry operations. Applicant intends to apply to the State of Maryland for an annual subsidy of $16,000 based upon the rate of $1,000 for each land mile of the proposed ferry route.

As further evidence of the public convenience and necessity which the proposed extension will serve applicant calls attention to the fact that there has for some time been an insistent demand among the residents of the Eastern Shore for the establishment of a ferry service of the character proposed. This demand was crystallized in a circular letter issued by Frank Robbins of Cambridge, Mary-

land, addressed to the business interests of that city and vicinity, calling a public meeting to be held on September 4, 1928, a photostatic copy of which circular letter, dated September 1, 1928, is submitted herewith as Exhibit No. 5. In pursuance of such call, a meeting was held at Cambridge on September 4, 1928, as a result of which there was organized, under the laws of Maryland, a corporation known as The Cambridge Ferry Company for the purpose of establishing a ferry between the Eastern Shore and a point a few miles north of the eastern terminus of the applicant's railway line.

After a thorough survey of all the available points for a landing place on the Eastern Shore, the Ferry Company acquired an option on what is known as the Seward Farm located on Trippe's Bay which is ideally situated with respect to the County highways and is shown on Exhibit No. 15.

The Cambridge Ferry Company applied to the Public Service Commission of Maryland for a certificate of public convenience and necessity, which application was duly advertised and set down for a hearing, but consideration thereof was indefinitely postponed owing to the fact that [fol. 177] the Company had not established a suitable financial plan. Thereafter the Cambridge Ferry Company requested applicant to interest itself in the ferry proposition, which it did, and upon being convinced of the desirability of a ferry service determined upon a plan for the extension of its service from its railhead at Chesapeake Beach to the said Seward Farm at Trippe's Bay. Accordingly the option which the Cambridge Ferry Company had on said farm was acquired for the applicant's benefit and thereupon the original plans of The Cambridge Ferry Company were abandoned. Applicant's plan has met with general approval of the business interests and property owners on the Eastern Shore. Evidence of this approval is shown in various letters received by Mr. Robbins and his associates, typical photostatic copies of a number of letters are submitted herewith and marked collectively, Exhibit No. 5.

Having discussed the plan generally applicant now submits answers to the questions set forth in the questionnaire, as follows:

1 Q. The essential facts relied upon to support the statement that the applicant is a carrier by railroad engaged in

the transportation of passengers or property, subject to the interstate commerce act, or is a corporation organized to construct and operate a railroad.

1 A. For more than ten years past applicant has been actually engaged in interstate commerce in the operation of a line of railroad between Chesapeake Junction within the District of Columbia and Chesapeake Beach in Calvert County, Maryland.

2 Q. Whether the proposed new line of railroad will be both constructed and operated by the applicant.

2 A. Yes, the applicant desires to reserve the right to apply to the Interstate Commerce Commission to transfer the operation of the proposed extension to a wholly owned subsidiary.

3 Q. Whether or not any corporation, individual, or trustee, holds control over the applicant at the date of filing this return. If control is so held:

[fol. 178] (a) The form of control, whether sole or joint, and whether in trust.

(b) The name and business address of the controlling corporation, individual, or trustee.

(c) The manner in which control was established.

(d) The extent of control.

(e) Whether control is direct or indirect.

(f) The name and business address of the intermediary through which control, if indirect was established and is exercised.

(g) The name and business address of the beneficiaries, for whom the trust, if any, is maintained.

(h) The purpose of the trust.

3 A. Yes.

(a) In trust.

(b) William V. Hodges, Colorado National Bank Building, Denver, Colorado.

(c) Substantially all of the stock and bonds of applicant were owned by the late D. H. Moffatt, of Denver. Upon his death certain creditors of the estate agreed to accept from the estate stock and bonds of the Railway Company in satisfaction of their claims. Thereupon the estate turned said securities over to William V. Hodges, as trustee, and the other owners of stocks and bonds of the Railway Company did likewise, to enable Wm. V. Hodges, as trustee to operate the road for the benefit of all parties in interest.

(d) William V. Hodges as such trustee has complete control.

(e) The control is direct.

(f) No intermediary.

(g) The names and business addresses of the beneficiaries are as follows:

[fol. 179] Estate Thomas F. Walsh, Care American Security & Trust Co., 15th & Pennsylvania Ave., Washington, D. C.

Estate Joseph Jacobson, Care Mr. F. J. Claussen, Trustee, 32 Liberty St., New York City.

Estate W. S. Stratton, Care Dines, Dines & Hulm, First National Bank Building, Denver, Colorado.

Estate Walter S. Cheesman, Care Mr. John Evans, First National Bank Building, Denver, Colorado.

Mr. J. W. Graham, 822 E. & C. Building, Denver, Colorado.

Estate Owen E. LeFevre, Care Harry E. Bellamy, 801 16th Street, Denver, Colorado.

Estate John F. Campion, Denver National Bank, Denver, Colorado.

Estate D. Herbert Dunn, Care Ezra Elliott, Del Norte, Colorado.

Estate Nathaniel P. Hill, Care Smith & Brock, Telephone Building, Denver, Colorado.

Spencer Penrose, Colorado Springs, Colorado.

Thomas Keely, Colorado National Bank Building, Denver, Colorado.

Kendall Keely, Colorado National Bank Building, Denver, Colorado.

First National Bank New York City.

Estate of Charles McNeill, Care Mrs. Willing Spencer, 940 Park Ave., New York City.

[fol. 180] (h) The purpose of the trust—see answer to 3. A (c) above.

4 Q. Whether the applicant is connected by common stock ownership, or otherwise, with any industry to be served by the proposed line. If so, state the facts.

4 A. No connection.

5 Q. Amount and kind of capital stock (a) authorized, and (b) issued, for construction of the proposed line.

5 A. It is not proposed to issue any stock for the construction of the proposed extension.

6 Q. The chief purposes and functions of the proposed line.

6 A. To furnish a shorter, more direct and more convenient route to and from the eastern shore of Maryland.

7 Q. The classes of service to be performed, as passenger, freight, express, and switching.

7 A. The transportation of passengers and motor vehicles.

8 Q. The kind of motive power to be used. If electric power, state source and estimated cost.

8 A. Motor propelled ferry boats.

9 Q. Whether the proposed line will receive material revenue from the territory traversed, or serve any material public convenience and necessity of the local territory. If the answer is "no" the applicant may elect to omit answers to questions 10 to 21, inclusive.

9 A. The proposed extension will receive material revenue from the territory served.

10 Q. The name and population of each county in which the proposed new line of railroad will be situated and the name and population of each city, town and village at which a station will be established, together with its distance from a designated initial point, with the source of information as to population.

[fol. 181] 10 A. The proposed ferry will be operated from Chesapeake Beach, Calvert County, Maryland, to Trippe's Bay, Dorchester County, Maryland. The population of Calvert County is 9,744 and the population of Dorchester County is 27,895. The population of the above counties is that shown by the estimates July 1, 1926, of the United States Census Bureau.

11 Q. The names of places mentioned in paragraph 10 that are now served by common carriers (excluding street railways), and the name of each common carrier serving the several places.

11 A. The landing point on Trippe's Bay is on an improved highway but no town exists there at the present time.

12 Q. The names of the places mentioned in paragraph 10 that have no common carrier service, giving the distance in miles of each such place from the nearest station on a common carrier, together with the name of each such carrier and the character of the connecting highway.

12 A. See answers to Q. 13 and Q. 14.

13 Q. The name and population of each city, town and village (together with state and county in which located), having a population of 200 or more and lying within 10 miles of the proposed new line of railroad, but not entered thereby.

13 A. The nearest town is Cambridge which has a population of about 10,000.

14 Q. The approximate distance in miles by highway from the nearest station on the proposed new line of railroad to each of the places enumerated in paragraph 13, and the names of all common carriers, if any, now serving each.

14 A. Cambridge, 10.8 miles from the ferry landing which city is now served by the Pennsylvania Railroad.

15 Q. The names of other common carriers with which the proposed new line of railroad will connect, and the proposed points of track connection.

15 A. None.

[fol. 182] 16 Q. The general topography of the country through which the proposed new line of railroad will extend, indicating whether level, rolling, mountainous, cultivated, pasture, prairie, desert, rock, timbered, or underlaid with minerals.

16 A. Not applicable.

17 Q. The approximate area of the territory to be served, an estimate of the population therein, and of the area,

(1) timber

(2) in pasture, and

(3) under cultivation.

17 A. The approximate area of the territory to be served is 4,135 square miles and the estimated population is 248,294. The remaining part of question No. 17 is not regarded as applicable inasmuch as the facilities to be afforded by the proposed ferry will be limited to transportation of passenger and motor vehicle traffic.

18 Q. The kinds of industry carried on in the area to be served, such, for example, as farming, dairying, grazing, coal mining, manufacturing, lumbering, etc., and the relative importance of each.

18 A. Not applicable, for reasons stated in 17 A. above.

19 Q. The main facts as to the age, growth and extent

of such industries, their probable future growth and permanence and the reasons therefor.

19 A. Not applicable, for reasons stated in 17 A. above.

20 Q. What carriers now serve these industries, and to what extent?

20 A. The carriers now serving these industries are the Pennsylvania Railroad Company and its subsidiaries north and south.

21 Q. Whether the chief support of the proposed new line of railroad will come from the general community or from some particular industry, or industries, located or to be located. In the latter case give facts concerning [fol. 183] such particular industry or industries and applicant's contractual or financial relation thereto.

21 A. The chief support of the proposed ferry will come from the transportation of passenger and motor vehicles.

22 Q. Whether the proposed new line of railroad will be built primarily for a direct profit from railway operation, or for the advantage of any other industry or business. If for the latter, state what industry or business will be benefited, what such advantages will be, and the applicant's contractual or financial relation to such industry or business.

22 A. The proposed ferry extension will be built primarily for a direct profit from ferry operation.

23 Q. If the proposed new line of railroad is an extension of an existing railroad, branch, connecting track or cut off, in so far as not fully set forth under paragraphs 21 and 22, the extent to which it is expected to be directly profitable in itself, and the extent to which it is expected to be justified by its effect on the business of the existing line.

23 A. See 21 A. and 22 A. above.

24 Q. If the proposed new line of railroad is to be a connecting link between existing railroads, the kind and volume of traffic, expressed in tons or carloads, that probably will be interchanged.

24 A. Not applicable.

25 Q. What economies will be effected by such interchange of traffic?

25 A. Not applicable.

26 Q. Of the interchange traffic mentioned in answer to paragraph 24, what part, expressed in tons and carloads,

cannot be hauled or moved between common points by existing railroads?

26 A. Not applicable.

27 Q. The facts as to any agreement, tentative or otherwise, with existing carriers, covering operation of the proposed line, interchange of traffic, division of rates, or trackage rights.

[fol. 184] 27 A. The applicant has no agreement with existing carriers.

28 Q. Whether any aid, gift, grant of right of way, or other donation has been promised in connection with the proposed new line of railroad, and, if so, the names of all persons, natural or artificial, giving such aid, gift, grant of right of way, or other donations, with a statement of the nature and value thereof.

28 A. No aid, gift, grant of right of way, or other donation in connection with the proposed new ferry line has been promised.

29 Q. The manner in which it is proposed to finance construction and equipment, the kind and amount of securities to be issued, and the approximate terms of their sale; to what extent funds for financing are now available, and which, if any, of such securities will be underwritten by industries to be served by the proposed line.

29 A. It is proposed to finance the construction of the ferry and provide it with working capital by the proceeds of an issue of applicant's Twenty Year 6% Bonds in the aggregate principal sum of $750,000. to be secured by a first mortgage on all of the physical assets of the company now owned and to be acquired, including the ferry properties, subject only to Equipment Trust Certificates in respect of the cost of the ferry boats to the extent of not more than 75% of such cost. The company has outstanding at present first mortgage bonds in the aggregate principal sum of $1,000,000. The company is in default for the payment of principal and interest on said issue of bonds, all of which bonds outstanding are owned by William V. Hodges as Trustee, who also, as hereinbefore set forth, owns all of the stock of the company and in addition thereto is the owner of certain other liens and claims against it. The said William V. Hodges has agreed to satisfy and discharge of record the present first mortgage and all other liens and claims held by him, so that the mortgage to secure the proposed new issue of $750,000. of bonds

may be a first lien upon all of the physical assets of the company, said Hodges agreeing to accept a second mortgage of $600,000. The aggregate principal sum of the proposed new first and second mortgages is considerably less than the amount now due on account of principal and in- [fol. 185] terest on the present outstanding mortgage. Applicant has not yet completed plans for the sale of the new bonds.

With reference to applicant's ability to pay the interest on and retire said bonds, attention is invited to the estimate of earnings set forth in the answer to Question No. 30.

Applicant also submits herewith a statement of Operating Revenue, Expenses and Income exclusive of interest on funded and unfunded debt of The Chesapeake Beach Railway Company, for the years 1924 to 1929, inclusive, marked Exhibit No. 6. In this connection applicant calls attention to the fact that while the earnings for the five-year period ended December 31, 1928, were not sufficient to pay the operating expenses, the statement shows a net operating income for the year 1929, due to economies effected by the present management, which took charge of the Railroad in June of that year. It is reasonably expected that with the continuation of these economies and the development of increased traffic there will be a still further increase in net railway operating income exclusive of the income from ferry operations as shown in the estimate set forth in answer to Question No. 30.

30 Q. An estimate, in detail, of the character and volume of traffic expected and the gross revenue to be derived therefrom, covering each of the first five years following the completion of the proposed new line of railroad, together with an estimate of the annual revenues expected after the first five years. The detailed estimate required for the first five years should show the amount of each class of traffic, the mean length of haul, the rate per unit, and the revenue to be derived. Chief points or territories of origin and chief points or territories of destination of traffic.

30 A. Exhibit No. 7 is an estimate, in detail, of the character and volume of traffic expected and the gross revenue to be derived therefrom covering each of the first five years following the completion of the proposed ferry, the rate per unit and the revenue to be derived therefrom. This

estimate has been discussed in detail in the Preliminary Statement (See ante, pp. 6-7).

31 Q. The estimated total gross revenue, operating expenses, net revenue and net railway operating income, cor- [fol. 186] responding with the estimates of traffiic under paragraph 30. By "net railway operating income" is meant the excess of the credits over the debits to income, as reflected by the operating revenue, operating expense, railway tax accrual, uncollectible railway revenue, equipment rent, and joint facilities rent accounts.

31 A. Exhibit No. 7 referred to in 30 A. is designed to show the estimated gross income for the first five years.

Exhibit No. 8 again sets forth the estimated gross operating revenue with deductions for estimated operating expenses and estimated taxes and insurance for the first five-year period.

The operating expenses for the first five years are shown at the constant figure of $103,567. The details of this latter item are shown in Exhibit No. 9.

Exhibit No. 10 is designed to show the net operating income reflected by Exhibit No. 8, after deduction of fixed charges. These fixed charges consist of interest on Equipment Trust Certificates, amortization thereof and interest on $750,000. bond issue covering the railway and the ferry. The estimated net income for the first year as thus shown by Exhibit No. 10 is $117,443, with an estimated annual increase of 10% for the succeeding four years, bringing the net income for the fifth year up to $298,115, after which time it is expected that the net income will be constant.

Exhibit No. 11 is designed to show, for the five years beginning with 1931 when the ferry will be put in operation, the operating revenues expected to be derived from freight, passenger and other sources; operating expenses; net revenue from railway operations, and after deducting therefrom tax accruals and equipment maintenance, a net railway operating income of $31,200. for 1931, increasing to $57,200. for 1935.

Inasmuch as the net operating income from the ferry will accrue to the railway company as sole owner of the ferry (or sole owner of any subsidiary corporation which may operate the ferry), applicant submits for the information of the Commission an estimate of operating income of the railway proper and an estimate of the combined income from railway and ferry service.

Exhibit No. 12 is designed to show the estimated net income from combined railway and ferry service for the [fol. 187] five years beginning January 1, 1931, indicating a total net income of $143,633. for the year 1931, increasing to $355,315. for the year 1935.

32 Q. The part of the estimated traffic which will constitute net additional business developed or created by the construction of the proposed new line of railroad, and the part that will be diverted from existing railroads.

32 A. All of the estimated traffic will constitute net additional business developed or created by the operation of the proposed ferry.

33 Q. The particular mining, timbering, manufacturing or other enterprises to be established contingent on the construction of the proposed new line of railroad and the applicant's contractual or financial relation thereto. The tonnage or number of cars of freight expected from such enterprise.

33 A. None.

34 Q. The dates on which it is expected to begin and to complete the construction of the proposed new line of railroad.

34 A. It is expected to begin construction of the proposed ferry immediately upon authorization by the Commission and to complete it by May 1, 1931.

35 Q. The engineering work in full detail which has been done with respect to the proposed line at the time of filing the return.

35 A. All preliminary soundings, surveys for piers, docks and dredging have been made, and necessary applications based thereon have been submitted to and permits granted by the War Department. Copies of the Engineer's specifications and estimates of cost of dredging and cost of construction and materials for docks and piers; application to and permits granted by War Department are submitted herewith and marked respectively Exhibits Nos. 15, 16, 17 and 18.

36 Q. The following particulars as to the physical characteristics of the proposed new line of railroad.

[fol. 188] 36 A. Not applicable.

37 Q. An estimate of total increase in charges to road and equipment account during the first five (5) years after completion of the line. If this displaces rental charges on equipment, so show.

37 A. Not applicable.

Respectfully submitted.

The Chesapeake Beach Railway Company, by Eugene Fox, Executive Vice-President. George E. Holmes, Counsel.

[fols. 189-191] *Duly sworn to by Eugene Fox. Jurat omitted in printing.*

[fol. 192] EXHIBIT No. 1

Morning Evening Sunday

The Sun

The A. S. Abell Company, Publishers, Baltimore, Md.

STATE OF MARYLAND,

City of Baltimore, ss:

Before me, a Notary Public, in and for said city and state, this twentieth day of January, 1930, came C. S. Funkhousen, personally known to me, who, being duly sworn, states as follows: That he is an employee of "The Sun" and that said publication in the issues of January 6-13-20—1930 once a week for three weeks carried the attached advertisement of Legal Notice Chesapeake Beach Railway Company—Application to Interstate Commerce Comm. Also that the Sun is in general circulation in all counties of Maryland.

Signature: C. S. Funkhousen. Edw. H. Frey, Notary Public. (Seal.)

Notice

Chesapeake Beach Railway Company hereby gives notice that on the 26th day of December, 1929, it filed with the Interstate Commerce Commission at Washington, D. C., its application for a certificate that the present and future public convenience and necessity require the extension of its line by establishing and operating a ferry between the present terminus of its line at Chesapeake Beach across Chesapeake Bay to a point on what is known as the Thomas J. Seward Farm on Trippe's Bay, which point is about 10 miles west of and on the State road leading to the town of Cambridge, a distance of 16 miles, all in Calvert and Dorchester counties, Maryland.

Chesapeake Beach Railway Company, by Eugene Fox, Executive Vice-President.

[fol. 193] Cambridge, Md., Jan. 18, 1930.

I hereby certify, that the annexed Notice Chesapeake Beach Railway Co. was published in The Daily Banner, a newspaper published in Cambridge, Dorchester County, Md., once in each of 3 successive weeks, prior to —-- —, 19—, commencing with the issue of January 3, 1930.

P. Watson Webb, Editor, per M. W.

Notice

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Chesapeake Beach Railway Company, by Eugene Fox, Executive Vice-President.

[fol. 194] Exhibit 2

Map of Bay District

(Here follows map, side folio 195)

[fol. 196] Exhibit 3

Maryland State Highway Map

(Here follows map, side folio 197)

[fol. 198] Exhibit 4

Traffic Map of Maryland Showing Distribution of Traffic Over State Highways

(Here follows map, side folio 199)

MAPS ARE TOO LARGE TO BE FILMED

[fols. 200-218] EXHIBIT 5

Circular Letter of Frank Robbins of Cambridge, Maryland, Calling Public Meeting for Consideration of Proposed Ferry, and Letters to Frank Robbins and Associates From Various Organizations and Individuals on the Eastern Shore of Maryland, Approving Plans for Proposed Ferry.

[Omitted in printing.]

[fol. 219]

Exhibit 6

Operating Revenues of Chesapeake Beach Railway Company for the Years 1924 to 1929, Inclusive

[fol. 220]

Note.—$1,606.00 Demurrage Uncollected. #Deficit or Debit Items.

Chesapeake Beach Railway Company

Operating Revenues, Expenses, and Income, Exclusive of Interest on Funded and Unfunded Debt

	1924	1925	1926	1927	1928	1929
Operating revenues:						
Freight	$34,409.43	$37,578.39	$40,334.76	$37,020.75	$49,171.04	$57,467.20
Passenger	103,982.13	97,118.17	80,258.93	73,655.45	68,451.32	60,679.67
Mail	2,003.76	2,032.79	1,994.44	1,994.41	3,548.54	3,550.95
Express	1,246.04	1,409.97	1,126.10	1,076.56	852.79	1,014.63
All other Transportation	2,981.13	2,546.15	1,807.15	1,452.61	1,242.59	511.40
Incidental	7,914.41	8,353.33	8,706.79	7,854.39	7,634.21	#9,300.87
Total railway operating revenues	$152,536.90	$149,038.80	$134,228.17	$123,054.17	$130,900.49	$132,524.72
Operating expenses:						
Maintenance of Way & Structures	$48,150.44	$45,736.06	$39,708.35	$39,865.41	$38,024.11	$25,555.72
Maintenance of Equipment	26,680.65	26,264.96	22,568.16	24,652.59	27,035.71	19,183.64
Traffic	8,762.65	8,232.73	7,595.95	7,476.63	6,417.09	8,345.37
Transportation	58,949.47	58,562.74	53,983.79	53,965.32	50,394.75	51,471.90
General	12,085.45	14,316.15	8,073.97	8,382.79	8,737.24	9,444.30
Total railway operating expenses	$154,628.66	$153,112.64	$131,930.22	$133,742.74	$130,608.90	$114,000.93
Income items:						
Net Revenue from Ry. Operations	#$2,091.76	#$4,073.84	$2,297.95	#$10,688.57	$291.59	$18,523.79
Railway Tax Accruals	5,698.44	5,709.89	5,612.50	5,770.30	5,225.42	5,754.31
Uncollectible Railway Revenue	9.25	.....	.31	.40	.87	.50
Railway operating income	#$7,799.45	#$9,783.73	#$3,314.86	#$16,459.27	#$4,934.70	$12,768.98
Equipments	234.54	# 95.13	# 762.23	# 1,793.85	# 3,873.45	# 5,329.39
Net railway operating income	#$7,564.91	#$9,878.86	#$4,077.09	#$18,253.12	#$8,808.15	$7,439.59

[fol. 221]

Exhibit 7

Statement of Estimated Gross Operating Revenue of Ferry for First Five Years

[fol. 222]

Chesapeake Beach Railway Company

Proposed Ferry System

Statement of Estimated Operating Revenue for Five Years

	First year	Second year	Third year	Fourth year	Fifth year
Estimated number of cars Handled per day @ $3.00 per car	250	275	302	332	365
Cars Handled Per Year	91,250	100,375	110,230	121,180	133,225
Est. Yearly Vehicle Rev	$273,750	$301,125	$330,690	$363,540	$399,675
Estimated Passgrs. Hnd'd per day @50c	500	550	605	665	731
Passgrs. Hnd'd Per Year	182,500	200,750	220,825	242,725	266,815
Est. Yearly Passgr. Rev	91,250	100,375	110,412	121,362	133,407
Estimated gross operating revenue	$365,000	$401,500	$441,102	$484,902	$533,082

[fol. 223]

EXHIBIT 8

Statement of Estimated Net Operating Revenue of Ferry for First Five Years

[fol. 224]

Chesapeake Beach Railway Company

Proposed Ferry System

Statement of Net Operating Revenue for Five Years

	1st year	2nd year	3rd year	4th year	5th year
Gross Operating Revenue..... (See Exhibit 7.)	$365,000	$401,500	$441,102	$484,902	$533,082
Operating Expenses*..... (See Exhibit 9.)	103,567	103,567	103,567	103,567	103,567
Taxes, Insurance.....	15,000	15,000	15,000	15,000	15,000
	$118,567	$118,567	$118,567	$118,567	$118,567
Net operating revenue..	$246,433	$282,933	$322,535	$366,335	$414,515

*Excludes depreciation.

[fol. 225] EXHIBIT 9

Statement of Estimated Detailed Cost of Operation of Ferry per Annum

[fol. 226] Chesapeake Beach Railway Company

Proposed Ferry System

Statement of Estimated Cost of Operation per Annum

Equipment

Two (2) steel, double-end, screw Diesel engine propelled passenger and automobile ferry boats, designed to meet the requirements of the American Bureau of Shipping and the United States Steamboat Inspectors and having capacity of 95 automobiles and 1500 passengers, for service between Chesapeake Beach, Calvert County, Maryland and Covey Creek, Dorchester County, Maryland, a distance between landings of approximately 14½ knots.

Approximate Dimensions

Displacement loaded	1,800 tons
Length (over all)	256 feet
Width of beam, molded	46 feet
Width over guards	66 feet
Draft (light)	11 ft. 6 in.

Power

Two (2) units, each 1200 H. P. reversible marine type Diesel engines, each unit direct connected to one propeller, one propeller on each end of boat, together with the necessary auxiliaries for the proper operation of the boats' speed of approximately 14½ knots.

Cost of Operation

1 Captain,	91¢ per hour	$7.28 per day
1 Mate and Pilot,	91¢ " "	7.28 " "
1 Chief Engineer,	91¢ " "	7.28 " "
1 Ass't Engineer,	83¢ " "	6.64 " "
1 Quartermaster,	64¢ " "	5.12 " "
3 Deck Hands,	64¢ " "	15.36 " "
1 Watchman,	64¢ " "	5.12 " "
1 Purser,	83¢ " "	6.64 " "

Fuel, 1100# @ Single Trip @ 1¢ per #—$11.00.

[fol. 227] Service

May 1st to October 15th—12 Single or 6 Round Trips per Day

Fuel	$132.00	
Crew	121.44	
Total Per Day	$253.44	
Total for 168 Days		$42,527.52

October 15th to May 1st—197 Days, 8 Single or 4 Round Trips per Day

Fuel	$88.00	
Crew	121.44	
Total Per Day	$209.44	
Total for 197 Days		41,259.68

Terminal Expense

2 Agents, Per Month	125.00	
2 Assistants, " "	100.00	
4 Bridgetenders " "	100.00	
Total Monthly	$850.00	
Total Per Annum		10,200.00

Maintenance

Repairs to Equipment (Estimated)	5,000.00

Recapitulation

Service	Total for 168 Days	42,527.52
	Total for 197 Days	41,259.68
	Terminal Expense	10,200.00
	Maintenance	5,000.00
	Incidentals 5%	4,579.36
	Total	$103,566.56

[fol. 228]

EXHIBIT 10

Statement of Estimated Net Ferry Income After Fixed Charges

[fol. 229]

Chesapeake Beach Railway Company

Proposed Ferry System

Statement of Estimated Net Income After Deduction of Fixed Charges

	1st year	2nd year	3rd year	4th year	5th year
Net Operating Revenue (See Exhibit 9.)	$246,433	$282,933	$322,535	$366,335	$414,515
Fixed Charges:					
Int. on Equipment Trust	31,500	28,350	25,200	22,050	18,900
Amortization	52,500	52,500	52,500	52,500	52,500
Int. on $750,000 Bond Issue	45,000	45,000	45,000	45,000	45,000
Total Fixed Charges	$129,000	$125,850	$122,700	$119,550	$116,400
Estimated net income	$117,433	$157,083	$199,835	$246,785	$298,115

[fol. 230] EXHIBIT 11

Statement of Estimated Railway Operating Income for the Five Year Period Beginning January 1, 1931

[fol. 231] Chesapeake Beach Railway Company

Statement of Estimated Railway Operating Income for Five-year Period Beginning January 1, 1931

Operating revenues:	1931	1932	1933	1934	1935
Freight	$70,000	$77,000	$80,000	$83,000	$85,000
Passenger	75,000	80,000	82,000	85,000	88,000
Other	15,000	15,000	15,000	15,000	15,000
	$160,000	$172,000	$177,000	$183,000	$188,000
Operation expenses	$119,000	$119,000	$119,000	$119,000	$119,000
Income items:					
Net Rev. from Ry. Operations	$41,000	$53,000	$58,000	$64,000	$69,000
Railway Tax Accruals	5,800	5,800	5,800	5,800	5,800
Equipments	4,000*	5,000*	5,000*	5,000*	6,000*
Net railway operating income	$31,200	$42,200	$47,200	$53,200	$57,200

*Adjusted Per Diem Basis.

[fol. 232]

EXHIBIT 12

Statement of Estimated Combined Net Income of Railway and Ferry

[fol. 233]

Chesapeake Beach Railway Company

Statement of Estimated Net Income from Combined Railway and Ferry Service for Five-year Period Beginning January 1, 1931

	1931	1932	1933	1934	1935
Railway (See Exhibit 11.)	$31,200	$42,200	$47,200	$53,200	$57,200
Ferry (See Exhibit 10.)	117,433	157,083	199,835	246,785	298,115
Total net income	$148,633	$199,283	$247,035	$299,985	$355,315

[fol. 234] EXHIBIT 13

Published Tariff of Claiborne-Annapolis Ferry Co.

[fol. 235] Tarriff No. 2

Public Service Commission of Maryland

Claiborne-Annapolis Ferry Company

For automobiles, each way, including for driver or chauffeur, according to the length of wheel base, viz:

(a) From 90 to and including 110 inches	$2.50
(b) From 110 to and including 130 inches	3.00
(c) From 130 inches up	3.50

For automobile trucks each way, including the chauffeur or driver, a gradusted scale from $3.00 to $12.00 according to capacity and load of truck, viz:

	Light	Loaded
½ ton truck	$3.00	$4.00
¾ ton and 1-ton trucks	4.00	5.00
1½ ton truck	5.00	6.00
2 ton truck	6.00	7.00
2½ ton truck	7.00	8.00
3 and 4 ton truck	10.00	12.00

For motorcycles, each way, including driver, single $1.00; with side-car attachment $1.50.

For passengers, single fare $0.65; round trip $1.00; children under six years, free: six to twelve years $0.35 single fare and $0.55 round trip.

B. F. Sherman, General Manager.

[fol. 236] EXHIBIT 14

Statistics Compiled by the State Roads Commission Showing Increase of Motor Vehicle Traffic in Territory to be Served by Proposed Ferry

[fol. 237]

Station number	Vacinity of	Total all vehicles			
		1926	Oct. to Oct., 1928, 1929	Increase vehicles	Per cent
W-1-3	Salisbury	565	881	316	55.9
" " 4	"	830	1704	874	105.3
" " 6	"	747	1871	1124	150.6
" " 7	"	415	976	561	135
Average	"	639	1358	719	112.5
S-4	Crisfield	415	742	327	78.7
" 5	"	664	1111	447	68.5
Average	"	539	927	388	71.9
W-0-9	Pocomoke	456	848	392	85.9
" " 10	"	605	998	393	64.9
Average		530	923	393	74
W-0-3	Ocean City	398	1194	796	200
D-5	Cambridge	747	1496	749	100.2
" 6	"	581	1272	591	118.9
Average		664	1384	720	108.4
T-1	Claibourn	498	780	286	57

[fol. 238] EXHIBIT 15

Map Showing Location of Sollard Farm on Trippe's Bay and Preliminary Survey of Road Location, Docks, Piers, and Dredging for Eastern Terminal Site

(Here follows exhibit, side folio 239)

[fol. 240] EXHIBIT 16

Preliminary Survey of Road Location and Docks, Piers, and Dredging for Western Terminal Site at Chesapeake Beach

(Here follows exhibit, side folio 241)

[fols. 242-263] EXHIBIT 17

Engineer's Specifications and Estimate of Cost of Dredging and Construction of and Materials for Docks and Piers at Ferry Terminals

[Omitted in printing.]

[fol. 264] BEFORE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 8013

[Title omitted]

PETITION OF INTERVENTION

Comes now your petitioner, The Claiborne-Annapolis Ferry Company, a Maryland corporation, and respectfully represents that it has an interest in the matters involved in the application made by the Chesapeake Beach Railway Company for a certificate of public convenience and necessity for the extension of its line by establishing and operating a ferry across the Chesapeake Bay between the points designated in the said application, and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That the petitioner is a corporation of the State of Maryland, and is engaged in the business of operating a ferry service for the transportation of passengers and property across the Chesapeake Bay from Claiborne, Tal-
[fol. 265] bot County, Maryland, to Annapolis, Anne Arundel County, Maryland.

II. Your petitioner has expended large sums of money for the acquisition of ferry boats of sufficient size and capacity to maintain an adequate service across the Chesapeake Bay.

III. Your petitioner is opposed to the granting of the application of the Chesapeake Beach Railway Company for the reason that the ferry service proposed to be operated by the applicant from Chesapeake Beach, Calvert County, Maryland, to a point on Trippe's Bay in Dorchester County, Maryland, will interfere with and hamper the efforts of

your petitioner to give adequate service on its present route.

IV. Your petitioner denies that the present and future public convenience and necessity requires the establishment of the proposed ferry.

V. Your petitioner denies the correctness of the information as to distances contained on the map filed by the applicant with its application, and marked "Exhibit A."

VI. The name, title and post-office address of the official to whom correspondence in regard to this petition is to be addressed is: John M. Dennis, Vice-President, The Claiborne-Annapolis Ferry Company, Union Trust Building, Baltimore, Maryland.

Wherefore the said The Claiborne-Annapolis Ferry Company prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the [fol. 265½] taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

Dated at Baltimore, Maryland, March 31, 1930.

The Claiborne-Annapolis Ferry Co., by John M. Dennis, Vice-President. Philip B. Perlman, Counsel, 1023 Munsey Building, Baltimore, Maryland.

[fol. 266] *Duly sworn to by John M. Dennis. Jurat omitted in printing.*

[fol. 267] INTERSTATE COMMERCE COMMISSION

Docket No. 8013

Date: 4/7/30.

APP. EX. No. 1

Witness: Rector

Chaney

Charter of the Washington and Chesapeake Beach Railway Company

Chapter 301 of the Acts of the General Assembly of Maryland, Passed at its January Session, 1892

Section 1. Be it enacted by the General Assembly of Maryland, That the charter heretofore granted under and

by virtue of the General Laws of the State of Maryland, to wit: On the first day of September, eighteen hundred and ninety-one, and recorded in the office of the Secretary of State, on the eleventh day of September, eighteen hundred and ninety-one, be and the same is hereby amended so as to read as follows: That the name of the said corporation shall be "The Washington and Chesapeake Beach Railway Company," and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, defend and be defended, in all courts of equity and law, and may have a common seal, and alter the same at its pleasure; and its principal place of business shall be in the City of Washington, District of Columbia, and its principal office, in the State of Maryland, shall be at Chesapeake Beach.

Sec. 2. That the officers of said company shall consist of a president, vice-president, treasurer and secretary and a board of eleven directors; that said directors shall be chosen by the stockholders in annual meeting, which shall be held on the second Tuesday in January in each year, and the directors of said company, or a majority of them, shall have power to appoint judges of all elections by the stock-[fol. 268] holders, and to elect the officers of the company who may be chosen from the directors or others; but no officer nor director shall be chosen who is not a stockholder. The officers and directors of said company shall hold their respective positions for one year, or until their successors are duly elected and qualified; provided, however, that in case of a vacancy existing in said board from any cause, such vacancy can be filled for the unexpired term, by the duly qualified and acting members of the board, and in case of a vacancy existing in any of the said offices, such vacancy may be filled for the unexpired term of such officer in like manner as in case of a director; and provided, further, that a failure to hold an annual meeting of the stockholders, for the purpose of electing directors, or the failure to elect directors for one or more years shall not operate as a forfeiture of this charter, but the directors chosen for the preceding year shall continue to hold and exercise the office until such time as a new election shall be held according to the provisions of this Act.

MAPS ARE TOO LARGE TO BE FILMED

Sec. 3. That the board of directors shall have power to adopt such rules, regulations, resolutions and by-laws for the conduct and government of said company as may be by it deemed proper, and not inconsistent with the laws of the State of Maryland and the United States; provided, however, that no general meeting of the stockholders shall be called, except upon a call made by a majority vote of the board of directors or upon the demand of stockholders owning one-third in amount of the capital stock of the said company, who shall give notice in writing to the president, stating the object desired in holding such meeting; on receipt of which the president shall give thirty days' notice of such meeting, and the time and place thereof and the object of the call; and if at any such called meeting a majority, in value, of the stockholders are not present in person or by proxy, the meeting shall be adjourned from day to day without the transaction of any business, for any time [fol. 269] not exceeding three days, and if within three days, stockholders having a majority of stock outstanding shall not attend, the meeting shall be dissolved. All general meetings of the company shall be held at the place where the principal office of the company, for the transaction of the business, shall be located, and such meeting may be adjourned thence to meet at such place and at such time as may be found to be to the greatest convenience of the stockholders.

Sec. 4. That the said corporation is hereby authorized to locate, construct, equip, maintain and operate a continuous line of railway, with such number of tracks as the public's need demands, and a telegraph line, and all necessary sidings, stations, switches, turnouts and other devices, between the following points, to wit: Commencing at or near the point where the Baltimore and Potomac Railroad crosses Beaver Run, in Prince George's County, Maryland, near the northeast corner of the District of Columbia, and extending thence in a southeasterly direction through the counties of Prince George's, Anne Arundel and Calvert, to the Chesapeake Bay, at a place called "Chesapeake Beach" and "Plum Point;" with privilege of extending the western end of the said line to such point in the northerly line of the District of Columbia, as may be found necessary for the future interest of the public and said corporation, and with

the further privilege of constructing such docks, piers, bridges and retaining walls along the bay shore, as may be necessary.

Sec. 5. The capital stock of the said Washington and Chesapeake Beach Railway Company shall be one million dollars divided into twenty thousand shares of fifty dollars each. No certificate of stock shall be issued until the same shall have been fully paid up.

Sec. 6. That the said company may buy, lease or construct such depots, ticket offices, work-shops, engine-houses, warehouses and other structures at such points along its said line of railway, and the branches thereof as may be [fol. 270] required for the company's business. That it may receive by deed of gift, purchase, and hold such land as may be necessary for its line and terminal facilities, stations, yards and other purposes, along the line of its said railway, and may also purchase, own, hold, sell, lease or otherwise dispose of such lands and premises at the terminal at Chesapeake Bay as may be essential for the establishment at the said terminal of a permanent seaside resort, not exceeding in the aggregate three thousand acres.

Sec. 7. That at the annual meeting of the stockholders, the president and directors, in office for the preceding year, shall exhibit to the stockholders a clear and distinct statement of the affairs of said company; that at any called meeting of the stockholders, a majority of them present, in value, may require similar statements from the directors whose duty it shall be to furnish them when thus required, and at all general meetings of the stockholders, a majority, in value, of all the stockholders of the company, may remove from office the president or any of the directors of the company and elect others in their stead.

Sec. 8. That if at any time, the capital stock of the said company shall be found to be insufficient for the purposes of this Act, then the president and directors of the said company, may, from time to time, increase the stock of the said company by the addition of as many shares of stock as they may deem necessary, and may receive subscriptions to the same, or sell the same at a price not below their

par value, after giving at least thirty days' notice of the opening of the books for subscriptions, or of selling such shares; provided, that the president and directors shall not increase the said capital stock beyond the sum or amount of two millions dollars.

Sec. 9. That in all proceedings of the president and directors of the said company, the president shall have one vote, and all questions shall be decided by a majority of votes, and the said president and directors shall appoint [fol. 271] all and any such officers, engineers and agents, as they may consider necessary for the transaction of the business and the purposes of the company, and may dismiss or change the same at pleasure, and may fix and determine by general regulation or by special contract, the compensation of all such officers and others, and may determine the manner of settling and adjusting all accounts of any of the said officers against the company, and also the manner and evidence of transfers of the stock of the company.

Sec. 10. That the president and directors shall have power to borrow money for the purposes of this Act, and to issue bonds, certificates or other evidences of such loans, and to pledge the property of the company for the payment of the same and its interest.

Sec. 11. That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary to the construction, working, use and repair of its said railroad, with such branches at any point of said railroad not exceeding twenty miles in length, as the said president and directors may determine; the said road when completed not to be more than sixty-six feet wide, except at or near its depots or stations, where the width may be made greater, with as many tracks as the president and directors may deem necessary, and the said president and directors may cause to be made, or may contract with others for making said railway, or any part of it, and they or their agents, or those with whom they may contract, or their agents, may enter upon and use and excavate any lands which may be wanted for the site of the said road, or the erection of warehouses or other works necessary for the said road, or for its construction or repair;

and that they may build bridges, fix scales and weights, lay rails, take and use earth, gravel, stone, timber or other materials which may be needed for the construction and repair of the said road or any of its works, and may make and construct all works whatever, which may be necessary or expedient in order to the proper completion and [fol. 272] maintenance of said road, and they may make or cause to be made, lateral railways in any direction whatever from the said railroad, and for the construction, repair and maintenance thereof, shall have all the rights and powers hereby given, in order to the construction and repair of the said principal railroad, and may also own and employ steamboats or other vessels to connect the said railroad or railroads with other points by water communication; provided, that nothing herein shall be construed to authorize the said company to take private property for their use without the compensation agreed upon by the company and the owners thereof, or awarded by a jury as hereinafter provided, being first paid or tendered to the party entitled to receive such compensation.

Sec. 12. That the said president and directors, or their agent or agents authorized by them, may agree with the owner or owners of any land, earth, gravel, stone, timber, streams or materials, or any improvements which may be wanted for the proper construction or repair of any of said roads, or for any of their works, for the purchase and use, and occupation or diversion of the same; and if they cannot agree, or if the owner or owners of any of them be an infant, feme covert, who is not possessed of the property to her sole and separate use, or authorized to contract in reference to the same, non compos mentis, or out of the county where such property wanted may lie when such property may be wanted, or for any other cause, be legally incapable of contracting, application may be made by the said company to any justice of the peace of such county, who shall thereupon issue his warrant under his hand and seal, to the sheriff of the county, requiring him to summon a jury of twenty of the inhabitants of said county above the age of twenty-one years, not related to the parties, nor in any wise interested, to meet on the lands or near the materials, or other property wanted, on a day named in said warrant, not less than ten nor more

than twenty days after issuing the same, and if at said [fol. 273] time and place any of the said jurors summoned do not attend, the sheriff shall immediately summon as many persons similarly qualified as together with those in attendance, will furnish a panel of twenty jurors in attendance: and from the panel each party, his, her, it or their agent, or attorney, or if either party be not present in person, or by agent, or being present in person or by agent, refuse to strike, the sheriff for him, her, it or them may strike off four persons and the remaining twelve shall act as the jury to the inquest of damages; and to each, before he acts as such juror, the sheriff shall administer an oath or affirmation, that he will justly and impartially value the damages, which the owner or owners will sustain by the use and occupation of the property required by the said company, and also the benefits or advantages to accrue to the owner or owners by the construction of the said road as a set-off to the said damages, but only in extinguishment of the claim for damages, and not for the actual value of the land, or other material taken; and after having made a fair and just offset of the advantages and disadvantages arising from the construction of the said railroad, they shall estimate and determine what amount of damages has been, or may be sustained by the said owner or owners, respectively; and the said jury shall reduce their inquisition to writing, and sign and seal the same, and it shall then be returned by the sheriff to the clerk of the Circuit Court for his county, and be filed by said clerk in his office, and shall be confirmed by said court at its next term or session, if no sufficient cause to the contrary be shown; and when confirmed shall be recorded by said clerk at the expense of the company, but if the same be set aside, the court shall direct another inquisition to be taken in the manner above described; and in case the second, or any other inquisition, which is confirmed by the court shall not award to the land owner a larger amount of damages than was awarded by the first inquisition, the court may, in its discretion, order the costs of the said second or other [fol. 274] inquisition, to be paid by the owner or owners of said land or materials condemned, and the inquisition shall in all cases describe the property taken, or the bounds of the lands condemned and the quality, or duration of the interest in the same, valued for the company; and such

valuation, when paid or tendered to the owner or owners of the property, his, her or their legal representatives, shall entitle the said company to the estate and interest in the same thus valued, as if it had been legally conveyed by the owner or owners of the same; and the valuation, if not received when tendered, may at any time thereafter be received without costs from said company by the owner or owners, his, her or their legal representatives. And the sheriff shall keep the said jury together for a reasonable time, until they shall agree upon and sign and seal the said inquisition; and in case it shall so happen that the jury cannot agree after being kept together as aforesaid, the sheriff may in his discretion, discharge the said jury, and without further warrant from a justice of the peace, shall within five days thereafter, summon another jury of twenty inhabitants, as aforesaid, not upon the former jury; and the same proceedings shall be had in all respects, as is hereinbefore provided; and in case of a second, or other disagreement of the jury, the same proceedings shall be had until a verdict or inquisition shall be made and returned as aforesaid.

Sec. 13. That whenever, in the construction of said road or roads it shall be necessary to cross or intersect any established road or way, the said president and directors shall so construct the said road across such established road or way, as not to impede the passage or transportation of persons or property along the same, and when it shall be necessary to pass through the lands of any individual, it shall also be their duty to provide for such individual, proper wagon ways across said road or roads, from one part of his land to the other.

Sec. 14. That said president and directors shall have [fol. 275] power to purchase, with the funds of the company, and place and use on any railroad constructed by them under this Act, all machines, vehicles or carriages of any description whatever, which they may deem proper for the purposes of transportation on the said road; they shall have power to charge for tolls upon and for the transportation of persons, goods, produce, merchandise or property of any description transported by them on said railroad or railroads, any sum not exceeding the following rates, that is to say: On all goods or merchandise or property trans-

ported, on said road or roads, not exceeding eight cents per ton, for both tolls and transportation for every mile the same may be transported, and for passengers not exceeding two cents per mile for each passenger, and it shall not be lawful for any person or persons, or for any corporate body to travel upon or use the roads of said company, or to transport any persons, merchandise or property of any description, upon or along the road or roads of the said company, without the license or permission of the president and directors of the said company.

Sec. 15. That a bell shall be placed on each locomotive engine and rung at the distance of at least one hundred rods from the place where the railroad shall cross any traveled public road or street, and be kept ringing until it shall have crossed such road or street, or a steam whistle shall be attached to each locomotive engine, and be sounded at least one hundred rods from the place where the railroad shall cross any such road, and shall be sounded at intervals until it shall have crossed such road or street, under the penalty of thirty dollars for the neglect of the provisions of this section, to be sued for before any justice of the peace of the election district or ward in which such neglect may happen, in ten days after such penalty was incurred, one-half thereof to go to the informer, and the other half to the county or city in which such neglect shall happen; [fol. 275½] and said company shall also be liable for all damages which shall be sustained by any person by reason of such neglect; and all penalties imposed by this Act may be sued for in the name of the State, and if such penalty shall be for a sum not exceeding one hundred dollars, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director, agent or engineer of said company.

Sec. 16. That the said board of directors shall, once in each year, or semi-annually declare and make such dividend as they may deem proper, of the net profits arising from the resources of the said company, first deducting the current and probable contingent expenses, and shall apportion the same among the stockholders of said company, in proportion to their respective shares.

Sec. 17. That in case any person shall wilfully obstruct, injure, impair or destroy any part of said road, or any of

the works, buildings, carriages, vehicles, engines or machines of said company, he, she, or they, for every such offence shall forfeit and pay to said company or their authorized agent or attorney, not less than fifty dollars, which may be recovered in the name of the said company, by an action of debt in the Circuit Court in the county wherein such offences shall be committed, and shall also be subject to indictment in said court and upon conviction of said offence, shall be punished by fine and imprisonment, in the discretion of the court.

Sec. 18. That if the said road shall not be commenced within one year from the passage of this Act, and shall not be finished in four years from the time of the commencement thereof, then this Act shall be null and void.

Sec. 19. That nothing in this Act shall be construed so as to authorize the said corporation to issue any note, scrip, device or any other evidence of debt to be used as a currency, and the Legislature hereby reserves the right to alter, amend or repeal this charter at its pleasure.

[fol. 276] Sec. 20. That the president and directors of said company shall have the power to issue bonds or certificates of indebtedness under the seal of said company, in such sum or sums, not less than one hundred dollars, as said company may prefer, and to sell and dispose of the same upon such terms as to said company may seem proper, and pledge the property and profits of the said company to secure the payment thereof, and also with power to convert the bonds so issued, into capital stock of said company, upon such terms as may be agreed upon, between the holder or holders of said bonds and said president and directors.

Sec. 21. That the president and directors of said company, shall have full power and authority to connect the railroad which may be constructed under the provisions of this Act, with any other railroad now existing, or which may hereafter be constructed, and also to make such contracts and arrangements with the president and directors of such railroads for the through transportation of passengers and merchandise, and all property of what kind soever, in the cars or carriages of either company, as may appear to said president and directors convenient and advantageous.

Sec. 22. This amendment shall not in anywise impair or render inoperative any part of said original charter or any act done by said company thereunder, nor in any wise interfere with any rights or claims created or grown up under and by virtue of said original charter.

Sec. 23. And be it enacted, That this Act shall take effect from the date of its passage.

Frank Brown, Governor. (The Great Seal of Maryland.) Murray Vandiver, Speaker of the House of Delegates, Edward Lloyd, President of the Senate.

Approved April 2nd, 1892.

[fol. 277] STATE OF MARYLAND, Set:

I, James A. Young, Clerk of the Court of Appeals of Maryland, do hereby certify, that the foregoing is a full and true copy of the Act of the General Assembly of Maryland of which it purports to be a copy, as taken from the Original Law, belonging to and deposited in the office of the Clerk of the Court of Appeals aforesaid.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the said Court of Appeals, this 12th day of November 1929.

James A. Young, Clerk of the Court of Appeals of Maryland. (Seal Court of Appeals, Maryland.)

[fol. 278] INTERSTATE COMMERCE COMMISSION

Finance Docket No. 8013

Date: 4/7/30.

APP. EXHIBIT No. 6

Witness: Rector

Chaney

Excerpt from Commission's Decision in Chesapeake Beach Ry. Co., 103 I. C. C. 67, at 68, 69

"Location and general description of property.—The railroad of Chesapeake Beach Railway Company, hereinafter called the carrier, is a single-track standard-gauge steam-operated railroad, extending from Chesapeake Beach,

Md., to Chesapeake Junction, D. C. The carrier owns that part of its line which is located in Maryland and leases from the Washington, Potomac & Chesapeake Railway Company that part located in the District of Columbia. The total mileage operated, both owned and leased, is as follows:

	Main tracks Miles	Yard track and sidings Miles	All tracks Miles
Owned, District Line, Md., to Chesapeake Beach, Md.	26.482	5.384	31.866
Leased, District Line, Md., to Chesapeake Junction, D. C.	2.047	0.450	2.497
Total used	28.529	5.834	34.363

Traffic Connections.—The railroad of the carrier connects with the Baltimore and Ohio Railroad at [illegible]peake Junction, D. C., and with the Philadelphia, Baltimore and Washington Railroad Company, a part of the Pennsylvania system, at Pennsylvania Junction, Md."

[fol. 279] [File endorsement omitted.]

[fol. 280] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. Finance 8013

In the Matter of the Application of the CHESAPEAKE BEACH RAILWAY COMPANY, under Paragraphs (18) to (21), Inclusive, Section 1 of the Interstate Commerce Act, as Amended, for a Certificate that the Present and Future Public Convenience and Necessity Require and will Require an Extension of its Line by Establishing and Operating a Ferry for the Transportation of Passengers and Property Between Chesapeake Beach in Calvert County, Maryland, across Chesapeake Bay, and a Point on Trippe's Bay in Dorchester County, Maryland.

PETITION FOR MODIFICATION OF COMMISSION'S REPORT, ORDER AND CERTIFICATE—Filed Sept. 2, 1930

The Claiborne-Annapolis Ferry Company respectfully petitions the Interstate Commerce Commission to modify the Report, Order and Certificate filed by it in the above entitled case on August 1st, 1930, and for cause says:

1. That the application filed in this case by the Chesapeake Beach Railway Company was for authority "to establish and operate, either directly or through a wholly owned subsidiary, a ferry for the transportation of passengers and property between the terminus of its said line [fol. 281] at Chesapeake Beach, across Chesapeake Bay, and a point on Trippe's Bay in Dorchester County, Maryland."

2. That all of the evidence produced by the applicant in support of its application was based upon a proposed ferry service and not upon an extension of railroad as contemplated by paragraph 18 of Section 1 of the Interstate Commerce Act.

3. That the applicant in this case, while referring to the proposed service as an extension of its railroad (applicant's brief in reply to Intervener's Exceptions to Report of Examiner, p. 6), yet the application and evidence in support thereof clearly indicate that the applicant proposes to establish a general ferry service, and apparently does not propose an extension of its line of railroad.

4. That your petitioner does not question the authority or the wisdom of this Honorable Commission in granting to the applicant a Certificate of Public Convenience and Necessity if the Commission construes the application of the Chesapeake Beach Railway Company in this case to be an application for a certificate authorizing an extension of its railroad.

5. That, although the jurisdiction of this Honorable Commission in this case is limited in law to the grant of authority to the applicant to extend its line of railroad across the Chesapeake Bay by means of vessels, the Report, Order and Certificate filed in this case on their face would seem to indicate that the Commission has attempted to grant to the applicant authority to operate a general ferry across the Chesapeake Bay between the points known as Chesapeake Beach, Calvert County, Maryland, and Trippe's Bay, Dorchester County, Maryland. While your petitioner does not suggest that this Honorable Commis- [fol. 282] sion has granted or attempted to grant to the applicant such a certificate, which could be granted only

by the State of Maryland, yet the use of the language by the Commission as follows:

"It is hereby certified, That the present and future public convenience and necessity require the establishment by the Chesapeake Beach Railway Company of ferry service across Chesapeake Bay, in Calvert and Dorchester Counties, Md., as set forth in the application and said report:"

is, we most respectfully submit, misleading and confusing.

Wherefore your petitioner prays the Commission to modify its Report, Order and Certificate in such manner as the Commission may deem best to remove any doubt that the permission granted the applicant is only for an extension of railroad and not for the establishment of a general ferry service.

And your petitioner further respectfully prays this Honorable Commission to grant a hearing on this petition so that oral argument may be had and your petitioner may be given an opportunity to present proof of the aforegoing allegations.

Respectfully submitted.

The Claiborne-Annapolis Ferry Company, Intervener, by Philip B. Perlman, Philip B. Perlman, Counsel.

Munsey Building, Baltimore, Maryland.

Dated August 14, 1930.

[fol. 283] [File endorsement omitted]

[fol. 284] BEFORE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 8013

[Title omitted]

APPLICANT'S REPLY TO INTERVENER'S PETITION FOR MODIFICATION OF REPORT, ORDER AND CERTIFICATE—Filed Sept. 5, 1930.

Applicant in its original petition herein set forth in Paragraph III thereof that it—

"proposed to establish and operate, either directly or through a wholly owned subsidiary, a ferry for the trans-

portation of passengers and property between the terminus [fol. 285] of its said line at Chesapeake Beach, across Chesapeake Bay, and a point on Trippe's Bay in Dorchester County, Maryland",

and in Paragraph V thereof that—

"the present and future public convenience and necessity require the establishment of the proposed ferry so as to afford a direct route by rail and water between the City of Washington and surrounding territory and the eastern shore of Maryland, *and also provide a direct route for the transportation of automobiles and other vehicles between such points.*" (Italics new.)

and Paragraph VII thereof contained an appropriate reference to applicant's charter powers.

In accordance with the provisions of paragraph (19) of Section 1 of the Interstate Commerce Act, notice of application was given to and a copy filed with the Governor of the State of Maryland, with the right to be heard in respect of the matter.

In answer to the notice so given, the Public Service Commission of Maryland advised the Interstate Commerce Commission that it did not desire to make any representations in the proceeding (Examiner's Report, Sheet 1, ll 15-17).

Notice of the application was given to the Claiborne-Annaplois Ferry Company, the intervener herein, which operates a general ferry service between Annapolis and the eastern shore of Maryland, and that company filed a petition of intervention, opposing the application, alleging:

[fol. 286] "(a) That the ferry service proposed to be operated by applicant would interfere with and hamper its efforts to give adequate service on its route (Par. III), and

(b) That the present and future public convenience and necessity did not require the establishment of the proposed ferry" (Par. IV).

Upon the issue raised by the petition of intervention, the matter was set down for hearing before Examiner Ralph R. Molster and was tried upon the theory that the application was one for the extension of applicant's line by the establishment of a ferry which, in addition to

handling interstate traffic, would also handle intrastate traffic, consisting of the transportation of automobiles and other vehicles with their passengers. This was the only possible ground which the intervenor would have for opposing the application, as it was the only way by which the granting of the petition could "interfere with and hamper the efforts of the intervener to give adequate service on its route." In fact, the major portion of the testimony of intervener's sole witness, John M. Dennis, was devoted to the effect which applicant's proposed ferry service would have upon the intervener's business, which, as above stated, could not be affected unless applicant transported automobiles in intrastate traffic along with its business in interstate traffic.

Upon a consideration of the evidence produced before the Examiner the latter filed a report in which he recommended that the Commission find that the present and [fol. 287] future public convenience and necessity require the establishment by the applicant of ferry service across Chesapeake Beach *as proposed by the applicant* (Examiner's Report, Sheet 20, ll. 12-15). (Italics ours.)

That the intervener clearly understood the Examiner's report to recommend the granting of a certificate of public convenience and necessity for the extension of applicant's line of railroad, which would include what intervener calls a general ferry service, is established beyond question by the exceptions which intervener filed to the Examiner's proposed report, in which exceptions intervener claimed that:

"I. The Interstate Commerce Commission is not authorized by law to grant and issue a certificate of public convenience for the establishment of a *general ferry service* from point to point within a State.

II. The applicant has no authority under the provisions of its charter to engage in a *general ferry business.*" (Italics ours.)

Upon consideration thereof, the Commission (Division 4) filed its report herein, dated August 1, 1930, in which it specifically referred to intervener's two exceptions above referred to and said:

"Upon the facts disclosed in this record, we are of the opinion that we have jurisdiction in the premises."

Thereupon the Commission issued a certificate that the present and future public convenience and necessity re- [fol. 288] quire the establishment by the Chesapeake Beach Railway Company of ferry service across Chesapeake Bay as set forth in the application and said report.

The intervener now prays for what it terms a "modification" of the Commission's report, order and certificate, upon the theory that it is misleading and confusing in that it might be interpreted as conferring authority upon the applicant to operate a general ferry in connection with the extension of its line, whereas (so intervener's petition alleges) while the Commission did not grant or attempt to grant any such certificate to the applicant, still the report, order and certificate would seem to indicate that the Commission has attempted to grant the applicant authority to operate a general ferry. In other words, the intervener urges upon the Commission that the latter was unscientific in the use of the phraseology employed by it and that such phraseology might lead the average person to believe the Commission intended to grant the Chesapeake Beach Railway Company the right to transport automobiles and passengers in intrastate traffic when it intended just the contrary.

The language of the Commission's report, order and certificate, as well as that of the Examiner's proposed report, is so clear and unequivocal that it is difficult to see how anyone of ordinary intelligence can possibly mistake the meaning and the present attempt of the intervener to import into it an imaginary ambiguity naturally raises the question as to the intervener's object in so doing. It is our surmise that intervener is not seeking to have the Commission "modify" its report, order and certificate [fol. 289] by stating that it did not intend to give applicant the right to operate a general ferry as a part of its extension; but it is merely injecting the State of Maryland into the case for the purpose of securing a specific ruling in regard thereto. In this connection, we again direct attention to the fact that the Public Service Commission of Maryland has already advised the Commission that it did not desire to make any representations in this proceeding;—a position well taken in view of the limitations im-

posed upon the authority of the Public Service Commission of Maryland by the Public Service Commission Law (Chapter 180 of the Act of 1910), Section 53 of which law (Annotated Code of Maryland, Section 416), provides as follows:

"The provisions of this subtitle shall apply to services or utilities rendered by any of the corporations subject to the provisions of this subtitle, or any of the same, within the State of Maryland, *and nothing in this subtitle contained shall be deemed or construed to apply or operate upon interstate or foreign commerce.*" (Italics ours.)

This section was amended by Chapter 467 of the Laws of 1929 to read as follows:

"The provisions of this subtitle shall apply to services or utilities rendered by any of the corporations or persons subject to the provisions hereof, or any of the same, within the State of Maryland, *and shall not be so construed as to extend to any matter or thing which, under the Federal Constitution, the Congress of the United States has the exclusive power to regulate, or which the Congress of the* [fol. 290] *United States has, in conformity with the said Constitution, and in the exercise of its concurrent power, in fact regulated, to the exclusion of the concurrent power of the several States.*" (Italics ours.)

The foregoing statutory provisions are in consonance with the decisions of the United States Supreme Court in cases dealing with the conflict between state and federal power under the commerce clause of the constitution, notable among which were the Minnesota Rate Cases, 230 U. S. 352, where the Court said (at page 399):

"The authority of Congress extends to every part of interstate commerce, and to every instrumentality or agency by which it is carried on; and the full control of Congress of the subjects committed to its regulation is not to be denied or thwarted by the commingling of interstate and intrastate operations. This is not to say that the Nation may deal with the internal concerns of the State, as such, but that the execution by Congress of its constitutional power to regulate interstate commerce is not limited by the fact that intrastate transactions may have become so inter-

woven therewith that the effective government of the former incidentally controls the latter. This conclusion necessarily results from the supremacy of the national power within its appointed sphere."

In discussing the rights of states to notice in such cases, Mr. Justice Brandeis in Colorado v. United States (271 U. S. 153), said:

[fol. 291] "To ensure due consideration of the local interests, Congress provided that a copy of every application must be promptly filed with the Governor of the State directly affected, that notice of the application must be published in some local newspaper, and that the appropriate state authorities should have 'the right to make before the Commission such representations as they may deem just and proper for preserving the rights and interests of their people and the states, respectively, involved in such proceedings'."

Notice was accordingly given to the Governor of the State of Maryland under paragraph (19) of Section 1 of the Interstate Commerce Act, as hereinbefore set forth.

The intervener is in no position to challenge the authority of the Interstate Commerce Commission to grant a certificate covering a general ferry service in addition to interstate commerce. Such a question would involve a conflict between state and federal power and could be raised only by the State of Maryland. Assuming that such a question could have been raised in the instant case, the State of Maryland has had its day in court and having advised the Commission that it did not desire to make any representations in this proceeding, there is now an estoppel on the record in respect of any objections which could have been raised by it. [fol. 292] In conclusion, it is submitted that there is no ambiguity in the Commission's report, order or certificate and that intervener's application should be denied.

Respectfully submitted.

Chesapeake Beach Railway Company, Applicant, by George E. Holmes, 170 Broadway, New York, N. Y.; Harry C. Ames, Transportation Building, Washington, D. C. Harry C. Ames, Its Attorneys.

Dated, September 4, 1930.

[fol. 293] STATE OF NEW YORK,
County of New York, ss:

George Licsak, being duly sworn, says that on the 4th day of September, 1930, he served upon Philip B. Perlman, attorney for The Claiborne-Annapolis Ferry Company, the Intervener in the within proceeding, a copy of the within reply to Intervener's petition, by depositing the same in a United States Post-Office Mail Box in a securely sealed post-paid envelope addressed to said Philip B. Perlman, Munsey Building, Baltimore, Maryland.

George Licsak.

Sworn to before me this 4th day of September, 1930. (illegible), Notary Public. Kings County Clerk's No. 134. Kings County Reg. No. 2147. New York County Clerk's No. 352. New York County Reg. No. 2T235. Commission Expires March 30, 1932.

[fol. 294] BEFORE INTERSTATE COMMERCE COMMISSION

Finance Docket No. 8013

CHESAPEAKE BEACH RY. CO. FERRY

ORDER DENYING PETITION FOR MODIFICATION—Oct. 13, 1930

Upon further consideration of the record in this proceeding, of the petition of the Claiborne-Annapolis Ferry Company for reopening of the proceeding for oral argument and for modification of the commission's report and certificate of public convenience and necessity herein, dated August 1, 1930, and of the reply of the Chesapeake Beach Railway Company to said petition:

It is ordered, That said petition be, and it is hereby, denied.

By the commission.

George B. McGinty, Secretary. (Seal.)

[fol. 295] Certificate to letter omitted in printing.

[fol. 295½] State of Maryland, Public Service Commission,
Munsey Building, Baltimore

Commissioners: Harold E. West, Chairman; J. Frank Harper, Steuart Purcell

Oct. 22, '30. 337,101.
Finance Docket 8013, Oct. 22, '30.

October 14, 1930.

Hon. B. H. Meyer, Interstate Commerce Commission, Washington, D. C.

DEAR SIR: The Public Service Commission of Maryland has received a copy of the brief of the Chesapeake Beach Railway Company in the matter of the proposed extension of its railway line between Washington, D. C. and Chesapeake Beach, Maryland, by the establishment of a ferry connecting with its railway line at Chesapeake Beach, and extending across the Chesapeake Bay to a point on Trippe's Bay in Dorchester County, Maryland.

When you advised this Commission of the application of the Chesapeake Beach Railway Company, the Commission, after receiving an opinion from its General Counsel, Hon. William Cabell Bruce, wrote you that the Commission had no representations to make in the matter.

The brief of the Company, now before me, states:

"Assuming that such a question could have been raised (the authority of the Interstate Commerce Commission to grant a certificate covering a general ferry service *in addition to interstate commerce*) in the instant case, the State of Maryland has had its day in court, and having advised the Commission that it did not desire to make any representations in this proceeding, there is now an estoppel on the record in respect to any objections which could have been raised by it."

That is not the view of this Commission at all. When this Commission advised you that it had no representations to make in the matter, it had before it an application for the extension of a railway line by the addition of a water connection, for the purposes of the railway's interstate

business. This Commission had not then, and has not now, any representations to make about any extensions, either by land or by water, which the Chesapeake Beach Railway Company may desire to make for interstate business. The opinion of our General Counsel was based on rulings of [fol. 296] the courts, and the statute law as to the Company's right to extend its line, subject to the approval of your Commission, for the carrying on of interstate operations. It did not waive its jurisdiction over commerce originating and terminating within the State, nor surrender any rights which the State of Maryland has, under the law or under the decisions of the courts, such as the right and the duty of passing upon an application for the establishment of a general ferry, and the fixing of the rates of such ferry, would be.

If the ferry proposed to be established by the Chesapeake Beach Railway Company is designed to be operated as part of its interstate line, carrying passengers, freight, railway cars or automobiles that form parts of its actual interstate operations as a railway, then this Commission has no representations to make. But if it is proposed to operate a ferry between two points in Maryland and carry passengers, freight and automobiles in an intrastate traffic which has no connection with the interstate business of the Company, then this Commission feels that the Interstate Commerce Commission has no authority to grant permission for such an operation, permission for which, if granted at all, must be obtained from the Public Service Commission of Maryland.

If it is the purpose of the Chesapeake Beach Railway Company to establish a general ferry for the handling of intrastate traffic, under the guise of making an extension of its interstate line, and without submitting its case to this Commission, then the Commission will be compelled to apply to the courts for the protection of its authority and the sovereignty of the state, in this matter.

Very sincerely, (Sgnd.) Harold E. West, Chairman.

HEW/MW.

Copy to George R. Holmes, 170 Broadway, N. Y.; Harry C. Ames, Transportation Building, Washington, D. C., Counsel for Chesapeake Beach Railway Co.

[fol. 297] IN SUPREME COURT OF THE UNITED STATES

ORDER ENLARGING TIME WITHIN WHICH TO DOCKET CASE AND FILE RECORD THEREOF IN THE SUPREME COURT OF THE UNITED STATES—Filed Aug 1, 1931

It appearing that in a proceeding in the Supreme Court of the District of Columbia described therein as Claiborne-Annapolis Ferry Company, Plaintiff, vs. United States of America, Chesapeake Beach Railway Company, Interstate Commerce Commission, et al, Defendants, in equity No. 52,254, a three Judge Court has heretofore denied plaintiff's injunction and dismissed its bill and it further appearing that plaintiff has prayed an appeal to the Supreme Court of the United States and that said appeal has been granted by the said Supreme Court of the District of Columbia and it appearing that further time is required to reduce to narrative statement the testimony and exhibits contain in the voluminous transcript of the record of the evidence and proceedings before the Interstate Commerce Commission, now a part of the record before the Supreme Court of the District of Columbia, and to assemble, prepare and certify the transcript of the record of said Court on said appeal, and for other good cause shown;

It is ordered that the time in which the Claiborne-Annapolis Ferry Company, plaintiff below, shall furnish, serve [fols. 298-301] and file in the office of the Clerk of the Supreme Court of the District of Columbia its narrative statement of the evidence offered before the Supreme Court of the District of Columbia and its designation for the record of additional appeal papers which have been filed, and in which to cause the transcript of the record to be completed, and in which to docket the case and file the record thereof with the Clerk of the Supreme Court of the United States, be, and it is hereby, enlarged to and including October 17, 1931.

Pierce Butler, Justice Supreme Court of the United States.

July 30, 1931.

Consent.

Elmer B. Collins, Attorney for United States. J. Stanley Payne, Attorney for Interstate Commerce Commission. Jonathan C. Gibson, Attorney for Chesapeake Beach Railway Company. Jesse Miller, George E. Edelin, Attorneys for Claiborne-Annapolis Ferry Company.

[fol. 302] [File endorsement omitted.]

[fol. 303] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS FOR APPELLANT—Filed Oct. 27, 1931

Now comes appellant, Claiborne-Annapolis Ferry Company, by counsel, and in compliance with Rule 13 of this Court, files the following statement of points upon which it will rely in this appeal:

I

That, where it appears that a certificate of public convenience and necessity issued by the Interstate Commerce Commission upon the application of the appellee carrier under the pretended authority of Section 1, Paragraph 18, of the Interstate Commerce Act as amended by the Transportation Act (41 Stat. 456; U. S. C. Tit. 49 (18)) is void and, unless the same be set aside and annulled, appellant (an intervener before the Interstate Commerce Commission) will suffer great and irreparable legal damage, said certificate should be set aside and annulled in an action brought for that purpose.

II

That, under the circumstance set out in Point I, supra, appellant had the right and was the proper party to maintain this action.

[fol. 304]

III

That, unless said certificate of public convenience and necessity is set aside and annulled, appellant will suffer great and irreparable legal damage.

IV

That the certificate of public convenience and necessity is void in that.

(a) The only authority of the Interstate Commerce Commission for the issuance of said certificate was upon a showing that public convenience and necessity required or would require the establishment and operation of a ferry "to be used by or in connection with" said railroad.

(b) There was no substantial evidence, and in fact no evidence whatsoever, either before the Interstate Commerce Commission or the three-judge Court below, to show that public convenience and/or necessity required or would require the establishment or operation of a ferry "to be used by or in connection with" the railroad of the Chesapeake Beach Railway Company.

(c) The only evidence of public convenience and necessity, if any, shown by the testimony before the Interstate Commerce Commission and the Court below was for the operation of a general or vehicular ferry between two points entirely within the State of Maryland and wholly unconnected with and not to be used by the railroad of the Chesapeake Beach Railway Company.

(d) The Interstate Commerce Commission was without authority under Section 1, Paragraphs 18 and 3 of the Interstate Commerce Act, as amended, to issue a certificate of public convenience and necessity for the operation of a general or vericular ferry between two points entirely within the State of Maryland where there was no showing [fol. 305] that public convenience or necessity required or would require the operation of such ferry for use by or in connection with the railroad of the appellee, Chesapeake Beach Railway Company.

(e) If such authority could be deduced from the language of Section 1, Paragraphs 18 and 3, of the Interstate Commerce Act, as amended, then said Act, in so far as it attempts to confer such authority on the Interstate Commerce Commission, is unconstitutional, null and void.

V

That the three-judge Court erred in failing to find that the certificate of the Interstate Commerce Commission at-

tempted to grant authority to the appellee railway company to operate a general or vehicular ferry.

VI

That the three-judge Court erred in construing the certificate of the Interstate Commerce Commission as authorizing the appellee railway company "to extend its rail line" by ferry.

VII

That the appellee, Chesapeake Beach Railway Company, had and has no authority under its charter to operate a general or vehicular ferry.

VIII

That, whereas the three-judge Court held with appellant that the Supreme Court of the District of Columbia is a District Court of the United States for jurisdictional purposes in this action, nevertheless, appellant reserves the right to discuss this question should it be raised on appeal by appellees.

[fols. 306 & 307] IX

The special three-judge Court erred in holding that there was substantial evidence before the Interstate Commerce Commission or before it to support the findings and certificate of the Interstate Commerce Commission and the said Court further erred in refusing to set aside and annul said certificate and in dismissing appellant's bill.

Philip B. Perlman, Jesse I. Miller, George E. Edelin, Attorneys for Appellant.

Service accepted.

Nelson Thomas, Attorney for Interstate Commerce Commission. J. C. Gibson, Attorney for Chesapeake Beach Railway Company. Thomas D. Thacher (J.), Solicitor General of the U. S.

[fol. 308] [File endorsement omitted.]

[fol. 309] IN SUPREME COURT OF THE UNITED STATES

DESIGNATION OF RECORD AND STIPULATION—Filed Oct. 28, 1931

Now come the parties hereto by their respective counsel and designate for printing the following portions of the record and, in addition thereto, stipulate and agree as hereinafter set out concerning certain porfions of the record not to be printed:

Print the following portions of the record:

A. Transcript—Index and pages 1 to 84, inclusive.

B. Narrative abstract of testimony, pages 1 to 71, inclusive.

C. Exhibits, as follows:

1. Certificate of Clerk of Supreme Court of District of Columbia transmitting Exhibits.

2. Pages 1 to 5, Application of Chesapeake Beach Railway Company to Interstate Commerce Commission.

3. Page 7, "Return to Question-aire." (In the paging of Exhibits, all of the said "Return to Question-aire", which comprises a printed volume with exhibits, has been numbered "Page 7". All of said "Return to Question-aire" is to be printed except Exhibits 5, 17 and 18 thereof.)

4. Pages 8 to 11, inclusive, Claiborne-Annapolis Ferry [fol. 310] Company's intervening petition to Interstate Commerce Commission.

5. Pages 12 to 23, inclusive, charter of Washington and Chesapeake Beach Railway Company.

6. Page 49, excerpt from Interstate Commerce Commission's decision reported in 103 I. C. C. 67-69.

7. Pages 138 to 141, inclusive, Claiborne-Annapolis Ferry Company's petition to Interstate Commerce Commission for modification of order.

8. Pages 142 to 152, Chesapeake Beach Railway Company's reply to above-mentioned petition.

9. Page 153, order of Interstate Commerce Commission denying petition for modification.

10. Pages 154 to 156, inclusive, letter of Maryland Public Service Commission to Interstate Commerce Commission and certificate attached thereto.

As to certain portions of the Exhibits not appearing in the above designation, the parties stipulate and agree as follows:

1. In lieu of printing Exhibit 18, in "Return to Question-aire", the parties stipulate that the War Department has issued a permit to the Chesapeake Beach Railway Company for the construction, dredging and other work affecting navigation which will be necessary if the proposed ferry is finally authorized and established.

2. In lieu of printing Pages 24 to 48, inclusive, of the Exhibits, the parties stipulate and agree that the Chesapeake Beach Railway Company, one of the appellees herein, is the successor to the original charter rights of the Washington and Chesapeake Beach Railway Company and is the present owner of the property of said predecessor company.

3. In lieu of printing pages 50 to 60, inclusive, of the Exhibits, the parties stipulate and agree that the Chesapeake [fol. 311] Beach Railway Company publishes and has on file with the Interstate Commerce Commission schedules of freight and passenger tariffs and concurrences with other railroads engaged in interstate commerce as to local and interstate rates.

4. In lieu of printing pages 62 to 125, inclusive, of the Exhibits, the parties stipulate and agree as follows:

That the annual reports filed by the Claiborne-Annapolis Ferry Company with the Maryland Public Service Commission show the following entries, among others:

Operating revenues from——

	Passenger traffic	Vehicular traffic	Freight traffic
1922	$53,306.57	Nothing	$812.84
1923	62,584.31	$59,378.75	112.59
1924	77,697.15	78,241.70	Nothing
1925	87,394.30	96,491.00	190.42
1926	94,045.00	113,860.50	318.79
1927	114,374.40	138,341.00	201.38
1928	124,707.07	160,206.30	Nothing
1929	143,003.00	189,630.00	Nothing

That other material portions of said annual reports appear on Appendix I, attached hereto.

5. The parties stipulate and agree that the report and order of the Interstate Commerce Commission, which this proceeding attacks, and which appears on pages 126 to 137, inclusive, of the Exhibits, is identical with Exhibit A of the motion to dismiss and answer of the Interstate Commerce Commission filed in the lower Court and that said Exhibit A to said motion to dismiss and answer is and may be considered as the findings and order of the said Interstate Commerce Commission upon which this proceeding is based.

6. It is stipulated and agreed by the parties that the originals of all Exhibits may be considered as a part of the [fol. 312] record before this Court and may be referred to and used by counsel or by the Court.

Jesse I. Miller, Philip B. Perlman, George E. Edelin, Attorneys for Appellant. Elmer B. Collins, Special Assistant to the Attorney General *General* of the U. S. Nelson Thomas, Attorney for Interstate Commerce Commission. Jonathan C. Gibson, Attorney for Chesapeake Beach Railway Company.

[fol. 313] EXCERPTS FROM ANNUAL REPORTS OF THE CLAIBORNE-ANNAPOLIS FERRY COMPANY TO THE PUBLIC SERVICE COMMISSION OF MARYLAND

Appendix I to Designation of Record and Stipulation

(Here follows comparative general balance sheet, side folios 314 and 315)

[fol. 314]

From the 1922 Report

Comparative General Balance Sheet (Page 3 of the Report)

	Asset or debit side					Liability or credit side			
Line No.	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Compa preced (increase decreas
1	$1,454.05	Cash*	$8,004.82	$6,550.77	.....	Taxes accrued and unpaid	.....	....
2	.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	.....	....
3	.....	Accounts receivable	.....	.....	.....	Interest accrued on unfunded debt	.....	....
4	.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	....
5	1,454.05	Total Current Assets	8,004.82	6,550.77	.....	Receivers' certificates	.....	....
6	.....	Materials and supplies on hand	.....	.....	5,175.00	Bills payable	$4,300.00	x $
7	.....	.....	.....	.....	16,062.72	Accounts payable	10,639.38	x 5,
8	1,454.05	Total Floating Capital	8,004.82	6,550.77	.....	Salaries and wages unpaid	.....	....
					.....	Dividends payable	.....	....
10	197,310.60	Fixed Capital (page 5)	199,010.60	1,700.00	71,358.37	Other unfunded debt # E. C. Horr, Atty	71,358.37	....
11					92,596.09	Total unfunded Debt	86,297.75	....
[fol. 315]								
12	.....	.....	.....	.....	.....	.....	.....	....
13	.....	.....	.....	.....	$100,000.00	Funded Debt, page 4	$100,000.00	....
14	$1,500.00	Investments	$944.26	x $ 555.74				
15	33,086.80	Sinking funds, invested	41,366.89	8,280.09	192,596.09	Total Debt	186,297.75	....
16	20.56	Sinking funds, uninvested Inv	2,992.23	2,971.67	.....	Reserve for Accrued Depreciation	.....	....
17	.....	Special deposits	.....	.....	.....	Sinking fund reserves	.....	....
18	28,763.11	Prepayments	28,313.11	x 450.00	9,916.16	Other reserves	20,017.31	10
19	.....	Suspense#	.....	.....	.....	.....	.....	....
20	.....	Deferred charges#	.....	.....	290,055.00	Common stock, page 4	290,375.00	
21	.....	.....	.....	31,598.33	.....	Preferred stock, page 4	.....	....
22	262,135.12	Totals	280,631.91	18,496.79	.....	Totals	.....	....
23	230,482.13	Corporate deficit	216,058.15	x 14,423.98	.....	Corporate Surplus	.....	....
24	492,617.25	Grand Total, Asset Side	496,690.06	4,072.81	492,617.25	Grand Total, Liability Side	496,690.06	4
				17,114.35				

x Red Ink figures.

* Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

Harrington } 5%
Lincoln }

From the 1922 Report

Comparative General Balance Sheet (Page 3 of the Report)

Asset or debit side				Liability or credit side			
Balance beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$1,454.05	Cash*	$8,004.82	$6,550.77	.....	Taxes accrued and unpaid	.....	.....
.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	.....	.....
.....	Accounts receivable	.....	.....	.....	Interest accrued on unfunded debt	.....	.....
.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	.....
1,454.05	Total Current Assets	8,004.82	6,550.77	.....	Receivers' certificates	.....	.....
.....	Materials and supplies on hand	.....	.....	5,175.00	Bills payable	$4,300.00	x $875.00
.....	.....	.....	.....	16,062.72	Accounts payable	10,639.38	x 5,423.34
1,454.05	Total Floating Capital	8,004.82	6,550.77	.....	Salaries and wages unpaid	.....	.....
				.....	Dividends payable	.....	.....
97,310.60	Fixed Capital (page 5)	199,010.60	1,700.00	71,358.37	Other unfunded debt # E. C. Horr, Atty	71,358.37	.....
				92,596.09	Total unfunded Debt	86,297.75	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	$100,000.00	Funded Debt, page 4	$100,000.00	.....
$1,500.00	Investments	$944.26	x $ 555.74				
33,086.80	Sinking funds, invested	41,366.89	8,280.09	192,596.09	Total Debt	186,297.75	.....
20.56	Sinking funds, uninvested Inv	2,992.23	2,971.67	.....	Reserve for Accrued Depreciation	.....	.....
.....	Special deposits	.....	.....	.....	Sinking fund reserves	.....	.....
28,763.11	Prepayments	28,313.11	x 450.00	9,916.16	Other reserves	20,017.31	10,051.15
.....	Suspense#	.....	.....	.....	.....	.....	.....
.....	Deferred charges#	.....	.....	290,055.00	Common stock, page 4	290,375.00	320.00
.....	.....	.....	31,598.33	.....	Preferred stock, page 4	.....	.....
262,135.12	Totals	280,631.91	18,496.79	.....	Totals	.....	.....
230,482.13	Corporate deficit	216,058.15	x 14,423.98	.....	Corporate Surplus	.....	.....
492,617.25	Grand Total, Asset Side	496,690.06	4,072.81	492,617.25	Grand Total, Liability Side	496,690.06	4,072.81
			17,114.35				

Harrington } 5%
Lincoln }

k figures.
in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

[fol. 316] Statement of Fixed Capital, December 31, 1922
(Page 5 of Report)

Pier and Wharf Property	$750.63
Steamers	192,234.69
Marine Equipment	2,155.15
Furniture and Fixtures on Steamboats	3,132.31
Electric Light Plant—Claiborne	737.82
Totals	$199,010.60

Operating Revenues and Expenses (Page 6 of Report)

Revenues	$104,286.45
Expenses	105,761.81
Deficit for year for operating	$1,475.36

Operating expenses above stated include depreciation, $10,051.15, interest, $5,020.96, and Repairs, $13,457.38.

[fol. 317] (Here follows comparative general balance sheet, side folios 318 and 319)

[fol. 318]

From the 1923 Report

Comparative General Balance Sheet (Page 3 of the Report)

Line No.	Asset or debit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Liability or credit side: Balance at beginning of year	Item	Balance at close of year	Compa preced (increase decreas
	$ c		$ c	$ c	$ c		$ c	$
1	8,004.82	Cash*	8,643.05	638.23	.....	Taxes accrued and unpaid	.....	...
2	.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	.....	...
3	.....	Accounts receivable	87.30	87.30	.....	Interest accrued on unfunded debt	.....	...
4	.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	...
5	8,004.82	Total Current Assets	8,730.35	725.53	.....	Receivers' Certificates	.....	...
6	.....	Materials and supplies on hand	.....	.....	4,300.00	Bills payable	22,282.00	17
7	.....	.....	.....	.....	10,639.38	Accounts payable	32,012.61	21
8	8,004.82	Total Floating Capital	8,730.35	725.53	.....	Salaries and wages unpaid	.....	...
9	.....	.....	.....	.....	.....	Dividends payable	.....	...
10	199,010.60	Fixed Capital (page 5)	255,168.24	56,157.64	71,358.37	Other unfunded debt*	71,358.37	...
11	.....	.....	.....	.....	86,297.75	Total Unfunded Debt	125,652.98	39
12								
13	.....	.....	.....	.....	100,000.00	Funded Debt, page 4	100,000.00	...
14	944.26	Investments	909.01	x 35.25	.....	.....	.....	...
15	41,366.89	Sinking funds, invested	55,839.39	14,472.50	186,297.75	Total Debt	225,652.98	39
[fol. 319]								
16	2,992.23	Sinking funds, uninvested	1,886.00	x 1,106.23	.....	Reserve for Accrued Depreciation	.....	...
17	.....	Special deposits	.....	.....	.....	Sinking fund reserves	.....	...
18	28,313.11	Prepayments	28,522.01	208.90	20,017.31	Depreciation	31,894.54	11
19	.....	Suspense*	.....	.....	.....	.....	.....	...
20	.....	.....	.....	.....	290,375.00	Common stock, page 4	290,675.00	
21	.....	.....	.....	.....	.....	Preferred stock, page 4	.....	...
22	280,631.91	Totals	351,055.00	70,423.09	.....	Totals	.....	...
23	216,058.15	Corporate deficit	197,167.52	x 18,890.63	.....	Corporate Surplus	.....	...
24	496,690.06	Grand Total, Asset Side	548,222.52	51,532.46	496,690.06	Grand Total, Liability Side	548,222.52	51

x Red ink figures.

From the 1923 Report

Comparative General Balance Sheet (Page 3 of the Report)

Asset or debit side					Liability or credit side		
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
8,004.82	Cash*	8,643.05	638.23	.....	Taxes accrued and unpaid	.....	.....
.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	.....	.....
.....	Accounts receivable	87.30	87.30	.....	Interest accrued on unfunded debt	.....	.....
.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	.....
8,004.82	Total Current Assets	8,730.35	725.53	.....	Receivers' Certificates	.....	.....
.....	Materials and supplies on hand	.....	.....	4,300.00	Bills payable	22,282.00	17,982.00
.....	.....	.....	.....	10,639.38	Accounts payable	32,012.61	21,373.23
8,004.82	Total Floating Capital	8,730.35	725.53	.....	Salaries and wages unpaid	.....	.....
.....	.....	.....	.....	.....	Dividends payable	.....	.....
199,010.60	Fixed Capital (page 5)	255,168.24	56,157.64	71,358.37	Other unfunded debt*	71,358.37	.....
.....	.....	.....	.....	86,297.75	Total Unfunded Debt	125,652.98	39,355.23
.....	.....	.....	.....	100,000.00	Funded Debt, page 4	100,000.00	.....
944.26	Investments	909.01	x 35.25	.....	.....	.....	.....
41,366.89	Sinking funds, invested	55,839.39	14,472.50	186,297.75	Total Debt	225,652.98	39,355.23
2,992.23	Sinking funds, uninvested	1,886.00	x 1,106.23	.....	Reserve for Accrued Depreciation	.....	.....
.....	Special deposits	.....	.....	.....	Sinking fund reserves	.....	.....
28,313.11	Prepayments	28,522.01	208.90	20,017.31	Depreciation	31,894.54	11,877.23
.....	Suspense*	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	290,375.00	Common stock, page 4	290,675.00	300.00
.....	.....	.....	.....	.....	Preferred stock, page 4	.....	.....
280,631.91	Totals	351,055.00	70,423.09	.....	Totals	.....	.....
216,058.15	Corporate deficit	197,167.52	x 18,890.63	.....	Corporate Surplus	.....	.....
496,690.06	Grand Total, Asset Side	548,222.52	51,532.46	496,690.06	Grand Total, Liability Side	548,222.52	51,532.46

*d ink figures.

[fol. 320] Statement of Fixed Capital, December 31, 1923
(Page 5 of Report)

Pier and Wharf Property—Annapolis	$750.63
Marine Equipment on Steamers	3,014.74
Electric Light Plant—Claiborne	737.82
Steamers	274,532.74
Furniture and Fixtures on Steamers	3,132.31
Totals	255,168.24

Operating Revenues and Expenses (Page 6 of Report)

Total revenues	$123,408.89
Operating Expenses	126,718.26
Deficit for year from operating	3,309.37

The operating expenses above stated include depreciation, $11,877.23, interest, $4,029, and Repairs, $27,176.41.

[fol. 321] (Here follows comparative general balance sheet, side folios 322 and 323)

[fol. 322]

From the 1924 Report

Comparative General Balance Sheet (Page 3 of Report)

Line No.	Asset or debit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Liability or credit side: Balance at beginning of year	Item	Balance at close of year	Comp prec (increa decre
	$ c		$ c	$ c	$ c		$ c	$
1	8,643.05	Cash*	27,815.92	19,172.87	.....	Taxes accrued and unpaid	.....	..
2	.....	Bills receivable	5,000.00	5,000.00	.....	Interest accrued on funded debt	.....	..
3	87.30	Accounts receivable	632.20	544.90	.....	Interest accrued on unfunded debt	.....	..
4	.....	Other current assets	.....	.....	.....	Judgements unpaid	.....	..
5	8,730.35	Total Current Assets	33,448.12	24,717.77	.....	Receivers' certificates	.....	..
6	.....	Materials and supplies on hand	.....	.....	22,282.00	Bills payable	8,000.00	x 1
7	.....	.....	.....	.....	32,012.61	Accounts payable	26,933.18	x
8	8,730.35	Total Floating Capital	33,448.12	24,717.77	.....	Salaries and wages unpaid	.....	..
9	.....	.....	.....	.....	.....	Dividends payable	.....	..
10	255,168.24	Fixed Capital (page 5)	227,032.30	x 28,135.94	71,358.37	Other unfunded debt*	71,358.37	..
11	.....	.....	.....	.....	125,652.98	Total Unfunded Debt	106,291.55	x 1
12	.....	.....	.....	.....	.....	.....	.....	..
13	.....	.....	.....	.....	100,000.00	Funded Debt, page 4	100,000.00	..
14	909.01	Investments	.....	x 909.01	.....	.....	.....	..
15	55,839.39	Sinking funds, invested	67,888.14	12,048.75	225,652.98	Total Debt	206,291.55	x 1
[fol. 323]								
16	1,886.00	Sinking funds, uninvested	4,485.73	2,599.78	.....	Reserve for Accrued Depreciation	.....	..
17	.....	Special deposits	.....	.....	31,894.54	Sinking fund reserves	38,994.46	
18	28,522.01	Prepayments	30,442.34	2,920.23	.....	Other reserves	.....	..
19	.....	Suspense*	.....	.....	.....	.....	.....	..
20	.....	Deferred charges¶	.....	.....	290,675.00	Common stock, page 4	290,675.00	..
21	.....	.....	.....	.....	.....	Preferred stock, page 4	.....	..
22	351,055.00	Totals	363,296.68	12,241.68	548,222.52	Totals	535,961.01	x 1
23	197,167.52	Corporate deficit	172,664.33	x 24,503.19	.....	Corporate Surplus	.....	..
24	548,222.52	Grand Total, Asset Side	535,961.01	x 12,261.51	548,222.52	Grand Total, Liability Side	535,961.01	x 1

x Red ink figures.

* Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

22] From the 1924 Report

Comparative General Balance Sheet (Page 3 of Report)

Asset or debit side				Liability or credit side			
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
8,643.05	Cash*	27,815.92	19,172.87	.....	Taxes accrued and unpaid	.....	.....
.....	Bills receivable	5,000.00	5,000.00	.....	Interest accrued on funded debt	.....	.....
87.30	Accounts receivable	632.20	544.90	.....	Interest accrued on unfunded debt	.....	.....
.....	Other current assets	.....	.....	.....	Judgements unpaid	.....	.....
8,730.35	Total Current Assets	33,448.12	24,717.77	.....	Receivers' certificates	.....	.....
.....	Materials and supplies on hand	.....	.....	22,282.00	Bills payable	8,000.00	x 14,282.00
.....	.....	.....	.....	32,012.61	Accounts payable	26,933.18	x 5,079.43
8,730.35	Total Floating Capital	33,448.12	24,717.77	.....	Salaries and wages unpaid	.....	.....
.....	.....	.....	.....	.....	Dividends payable	.....	.....
255,168.24	Fixed Capital (page 5)	227,032.30	x 28,135.94	71,358.37	Other unfunded debt¶	71,358.37	.....
.....	.....	.....	.....	125,652.98	Total Unfunded Debt	106,291.55	x 19,361.43
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	100,000.00	Funded Debt, page 4	100,000.00	.....
909.01	Investments	.....	x 909.01	.....	.....	.....	.....
55,839.39	Sinking funds, invested	67,888.14	12,048.75	225,652.98	Total Debt	206,291.55	x 19,361.43
23] 1,886.00	Sinking funds, uninvested	4,485.73	2,599.78	.....	Reserve for Accrued Depreciation	.....	.....
.....	Special deposits	.....	.....	31,894.54	Sinking fund reserves	38,994.46	7,099.92
28,522.01	Prepayments	30,442.34	2,920.23	.....	Other reserves	.....	.....
.....	Suspense¶	.....	.....	.....	.....	.....	.....
.....	Deferred charges¶	.....	.....	290,675.00	Common stock, page 4	290,675.00	.....
.....	.....	.....	.....	.....	Preferred stock, page 4	.....	.....
351,055.00	Totals	363,296.68	12,241.68	548,222.52	Totals	535,961.01	x 12,261.51
197,167.52	Corporate deficit	172,664.33	x 24,503.19	.....	Corporate Surplus	.....	.....
548,222.52	Grand Total, Asset Side	535,961.01	x 12,261.51	548,222.52	Grand Total, Liability Side	535,961.01	x 12,261.51

Red ink figures.

Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

[fol. 324] Capital Stocks and Funded Debt (Page 4 of Report)

Capital stock of no par value—60,000 shares.
Authorized and mortgage bonds issued in 1919—100,000.

Fixed Capital, December 31, 1924 (Page 5 of Report)

Pier and wharf property—Annapolis	$750.63
Marine Equipment	2,108.04
Steamers (2)	223,435.81
Electric Light Plant—Claiborne	737.82
Totals	227,032.30

Operating Revenues and Expenses (Page 6 of Report)

Total operating revenues	$157,272.11
Operating expenses	129,675.48

Depreciation $11,451.48 and profit of $16,145.15 were charged to operating expenses, thereby balancing the account. Interest, $4,358.73, and Repairs, $35,630.15, also included in operating expenses.

[fol. 325] (Here follows comparative general balance sheet, side folios 326 and 327)

[fol. 326]

From the 1925 Report

Comparative General Balance Sheet (Page 3 of Report)

Line No.	Asset or debit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Liability or credit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
	$ c		$ c	$ c	$ c		$ c	$
1	17,815.92	Cash*	48,122.07	20,306.15		Taxes accrued and unpaid		
2	632.20	Bills receivable	32.65	x 599.55		Interest accrued on funded debt		
3	5,000.00	Accounts receivable		x 5,000.00		Interest accrued on unfunded debt		
4		Other current assets				Judgments unpaid		
5	33,448.12	Total Current Assets	48,154.72	14,706.60		Receivers' Certificates		
6		Materials and supplies on hand			8,000.00	Bills payable		x 8,
7					26,933.18	Accounts payable	15,982.95	x 11,
8	33,448.12	Total Floating Capital	48,154.72	14,706.60		Salaries and wages unpaid		
9						Dividends payable		
10	227,032.30	Fixed Capital (page 5)	227,032.30		71,358.37	Other unfunded debt#	71,358.37	
11					106,291.55	Total Unfunded Debt	87,291.32	x 19,
12								
13					100,000.00	Funded Debt, page 4	100,000.00	
14		Investments						
[fol. 327]								
15	67,888.14	Sinking funds, invested	76,718.14	8,830.00	206,291.55	Total Debt	187,291.32	x 19,
16	4,485.78	Sinking funds, uninvested	11,938.44	7,452.66		Reserve for Accrued Depreciation		
17		Special deposits				Sinking fund reserves		
18	30,442.34	Prepayments	26,363.11	x 4,079.23	38,994.46	Other reserves Depreciation	50,445.94	11
19		Suspense#						
20		Deferred charges#			290,675.00	Common stock, page 4	290,675.00	
21						Preferred stock, page 4		
22	363,296.68	Totals	390,206.71	26,910.03		Totals		
23	172,664.33	Corporate deficit	138,205.55	x 34,458.78		Corporate surplus		
24	535,961.01	Grand Total, Asset Side	528,412.26	x 7,548.75	535,961.01	Grand Total, Liability Side	528,412.26	x 7

x Red ink figures.

* Include in this item "cash" not only money, but also bank credit subject to demand, checks and sight drafts.

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From the 1925 Report

Comparative General Balance Sheet (Page 3 of Report)

Asset or debit side				Liability or credit side			
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
17,815.92	Cash*	48,122.07	20,306.15		Taxes accrued and unpaid		
632.20	Bills receivable	32.65	x 599.55		Interest accrued on funded debt		
5,000.00	Accounts receivable		x 5,000.00		Interest accrued on unfunded debt		
	Other current assets				Judgments unpaid		
33,448.12	Total Current Assets	48,154.72	14,706.60		Receivers' Certificates		
	Materials and supplies on hand			8,000.00	Bills payable		x 8,000.00
				26,933.18	Accounts payable	15,932.95	x 11,000.23
33,448.12	Total Floating Capital	48,154.72	14,706.60		Salaries and wages unpaid		
					Dividends payable		
227,032.30	Fixed Capital (page 5)	227,032.30		71,358.37	Other unfunded debt#	71,358.37	
				106,291.55	Total Unfunded Debt	87,291.32	x 19,000.23
	Investments			100,000.00	Funded Debt, page 4	100,000.00	
327]							
67,888.14	Sinking funds, invested	76,718.14	8,830.00	206,291.55	Total Debt	187,291.32	x 19,000.23
4,485.78	Sinking funds, uninvested	11,938.44	7,452.66		Reserve for Accrued Depreciation		
	Special deposits				Sinking fund reserves		
30,442.34	Prepayments	26,363.11	x 4,079.23	38,994.46	Other reserves Depreciation	50,445.94	11,451.48
	Suspense#						
	Deferred charges#			290,675.00	Common stock, page 4	290,675.00	
					Preferred stock, page 4		
363,296.68	Totals	390,206.71	26,910.03		Totals		
172,664.33	Corporate deficit	138,205.55	x 34,458.78		Corporate surplus		
535,961.01	Grand Total, Asset Side	528,412.26	x 7,548.75	535,961.01	Grand Total, Liability Side	528,412.26	x 7,548.75

x Red ink figures.

* Include in this item "cash" not only money, but also bank credit subject to demand, checks and sight drafts.

[fol. 328] Capital Stock and Funded Debt (page 4 of report): Unchanged.

Fixed Capital, December 31, 1925 (page 5 of report): Unchanged.

Operating Revenues and Expenses (Page 6 of Report)

Total operating revenues	$185,866.66
Operating expenses (exclusive of depreciation)	162,506.40

Depreciation of $11,451.48 and profit of $11,908.78 was charged to operating expenses, thereby balancing the accounts; also charged to operating expenses were: Interest, $3,329.98, and Repairs, $60,656.04.

[fol. 329] (Here follows comparative general balance sheet, side folios 330 and 331)

[fol. 330]

From the 1926 Report

Comparative General Balance Sheet (Page 3 of Report)

Line No.	Asset or debit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Liability or credit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
	$ c		$ c	$ c	$ c		$ c	$
1	48,122.01	Cash*	10,200.62	x 38,921.45	.....	Taxes accrued and unpaid	.....	...
2	.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	.....	...
3	32.65	Accounts receivable	717.80	.....	.....	Interest accrued on unfunded debt	.....	...
4	.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	...
5	48,154.72	Total Current Assets	10,918.42	x 37,236.30	.....	Receivers' certificates	.....	...
6	.....	Materials and supplies on hand	.....	.....	.....	Bills payable	164,790.00	164,
7	.....	.....	.....	.....	15,932.95	Accounts payable	38,482.24	22,
8	48,154.72	Total Floating Capital	10,918.42	x 37,236.30	.....	Salaries and wages unpaid	.....	...
9	.....	.....	.....	.....	.....	Dividends payable	.....	...
10	227,032.30	Fixed Capital (page 5)	494,167.08	267,134.78	71,358.37	Other unfunded debt*	71,358.37	...
11	.....	.....	.....	.....	87,291.32	Total Unfunded debt	274,630.61	187
12	.....	.....	.....	.....	.....	.....	.....	...
13	.....	.....	.....	.....	100,000.00	Funded Debt, page 4	100,000.00	...
14	.....	Investment	.....	.....	.....	.....	.....	...
15	76,718.14	Sinking funds, invested	79,435.14	2,717.00	187,291.32	Total Debt	374,630.61	187
[fol. 331]								
16	11,938.44	Sinking funds, uninvested	26,944.11	15,005.67	.....	Reserve for Accrued Depreciation	.....	...
17	.....	Special deposits	.....	.....	.....	Sinking fund reserves	.....	...
18	26,363.11	Prepayments	29,277.01	2,913.90	50,445.94	Other reserves Depreciation	73,058.23	22
19	.....	Suspense*	.....	.....	.....	.....	.....	...
20	.....	Deferred charges*	.....	.....	290,675.00	Common stock, page 4	300,000.00	9
21	.....	.....	.....	.....	.....	Preferred stock, page 4	.....	...
22	390,206.71	Totals	640,741.76	250,535.05	.....	Totals	747,688.84	...
23	x 138,205.55	Corporate deficit	x 106,947.08	x 31,258.47	.....	Corporate surplus	.....	...
24	528,412.26	Grand Total Asset Side	747,688.84	219,296.58	528,412.26	Grand Total, Liability	747,688.84	219

x Red ink figures.

* Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

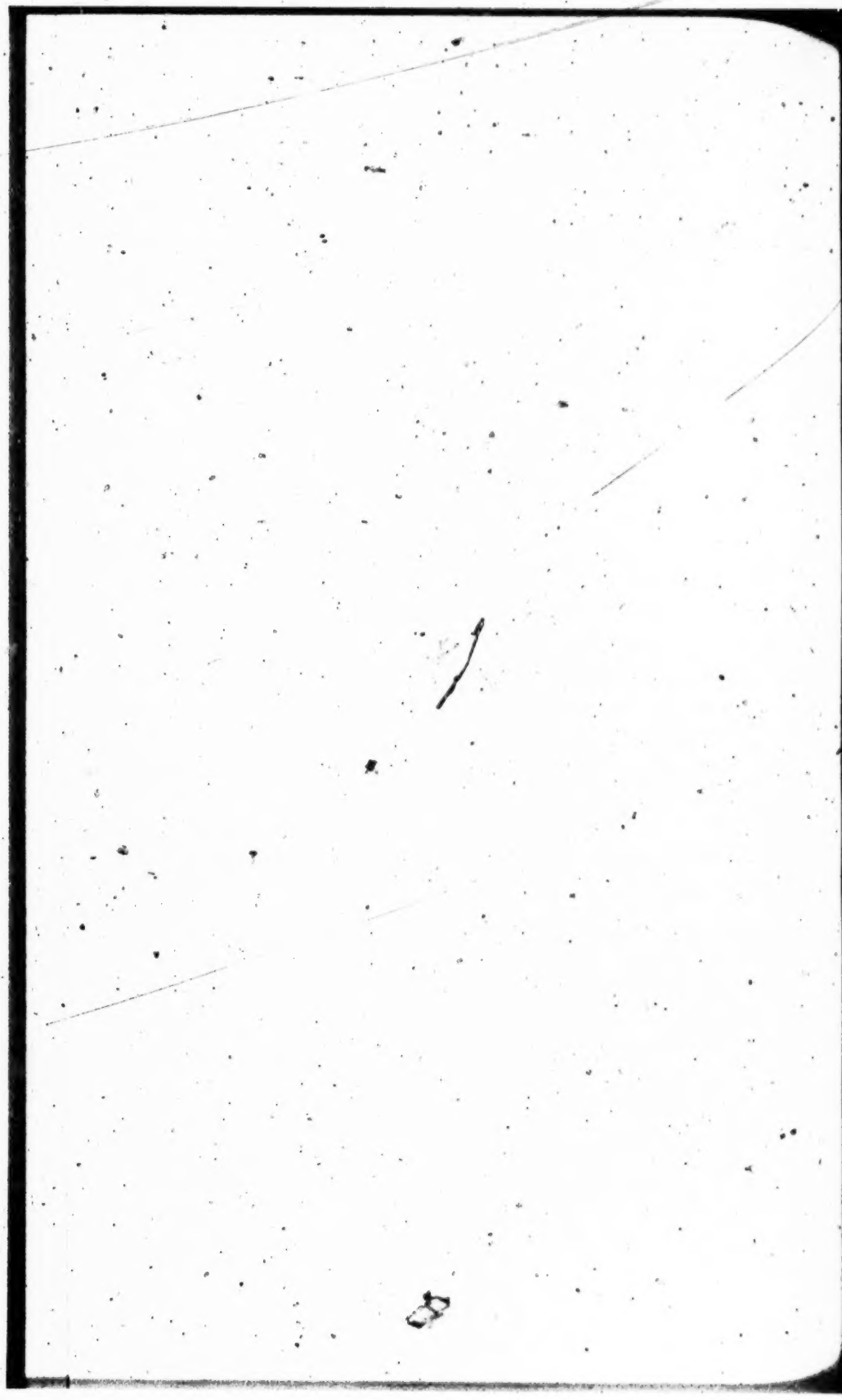
From the 1926 Report

Comparative General Balance Sheet (Page 3 of Report)

Asset or debit side					Liability or credit side		
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
48,122.01	Cash*	10,200.62	x 38,921.45		Taxes accrued and unpaid		
	Bills receivable				Interest accrued on funded debt		
32.65	Accounts receivable	717.80			Interest accrued on unfunded debt		
	Other current assets				Judgments unpaid		
48,154.72	Total Current Assets	10,918.42	x 37,236.30		Receivers' certificates		
	Materials and supplies on hand				Bills payable	164,790.00	164,790.00
				15,932.95	Accounts payable	38,482.24	22,549.29
48,154.72	Total Floating Capital	10,918.42	x 37,236.30		Salaries and wages unpaid		
					Dividends payable		
227,032.30	Fixed Capital (page 5)	494,167.08	267,134.78	71,358.37	Other unfunded debt*	71,358.37	
				87,291.32	Total Unfunded debt	274,630.61	187,339.29
				100,000.00	Funded Debt, page 4	100,000.00	
	Investment						
76,718.14	Sinking funds, invested	79,435.14	2,717.00	187,291.32	Total Debt	374,630.61	187,339.29
11,938.44	Sinking funds, uninvested	26,944.11	°15,005.67		Reserve for Accrued Depreciation		
	Special deposits				Sinking fund reserves		
26,363.11	Prepayments	29,277.01	2,913.90	50,445.94	Other reserves Depreciation	73,058.23	22,612.29
	Suspense*						
	Deferred charges*			290,675.00	Common stock, page 4	300,000.00	9,325.00
					Preferred stock, page 4		
390,206.71	Totals	640,741.76	250,535.05		Totals	747,688.84	
138,205.55	Corporate deficit	x 106,947.08	x 31,258.47		Corporate surplus		
528,412.26	Grand Total Asset Side	747,688.84	219,296.58	528,412.26	Grand Total, Liability	747,688.84	219,276.58

° Red ink figures.

* Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.



[fol. 332] Capital Stock and Funded Debt (page 4 of report): Unchanged.

Fixed Capital, December 31, 1926 (Page 5 of Report)

Wharf Property	$750.63
Marine Equipment	3,797.11
Electric Light Plant—Claiborne	737.82
Ferry steamers	487,511.36
Totals	492,797.02

Operating Revenues and Expenses (Page 6 of Report)

Total operating revenues	$209,799.62
Operating expenses	180,427.42

Depreciation, $22,612,29, and profit of $6,759.91 were charged to operating expenses, thereby ballancing the account.

The operating expenses include repairs	$27,050.41
Interest	6,357.27
Loss of vessel "Brennan"	27,063.94

[fol. 333] (Here follows comparative general balance sheet, inside folios 334 and 335)

[fol. 334]

From the 1927 Report

Comparative General Balance Sheet (Page 3 of Report)

	Asset or debit side					Liability or credit side				
Line No.	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)		Balance at beginning of year	Item	Balance at close of year	Compa preced (increase decreas	
	$ c		$ c	$	c	$ c		$ c	$	
1	10,200.62	Cash*	663.96	x 9,536.66			Taxes accrued and unpaid			
2		Bills receivable					Interest accrued on funded debt			
3	717.80	Accounts receivable		x 717.80			Interest accrued on unfunded debt			
4		Other current assets					Judgments unpaid			
5	10,918.42	Total Current Assets	663.96	x 10,254.46			Receivers' certificates			
6		Materials and supplies on hand				164,790.00	Bills payable	24,970.00	x 139	
7						38,482.24	Accounts payable		x 38	
8	10,918.42	Total Floating Capital	663.96	x 10,254.46			Salaries and wages unpaid			
9							Dividends payable			
10	494,167.08	Fixed Capital (page 5)	437,851.94	x 56,315.14		71,358.37	Other unfunded debt*		x 71	
11						274,630.61	Total Unfunded Debt	24,970.00	x 249	
12										
13						100,000.00	Funded Debt, page 4	100,000.00		
14		Investments								
15	79,435.14	Sinking funds, invested	92,731.14	13,296.00		374,630.61	Total Debt	124,970.00		
[fol. 335]										
16	26,944.11	Sinking funds, uninvested		x 26,944.11		73,058.23	Reserve for Accrued Depreciation	93,442.33	20	
17		Special deposits					Sinking fund reserves			
18	29,277.01	Prepayments	25,513.11	x 3,764.10			Other reserves			
19		Suspense*								
20		Deferred charges*				300,000.00	Common stock, page 4	300,000.00		
21							Preferred stock, page 4			
22	640,741.76	Totals	556,760.15	x 83,981.61		747,688.84	Totals	518,412.83	x 229	
23	x106,947.08	Corporate deficit					Corporate surplus	38,347.82	38	
24	747,688.84	Grand Total, Asset Side	556,760.15	x 83,981.61		747,688.84	Grand Total, Liability Side	556,760.15	x 190	

x Red ink figures.

* Include in this item "Cash" not only money, but also bank credit subject to demand, check and sight drafts.

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From the 1927 Report

Comparative General Balance Sheet (Page 3 of Report)

Asset or debit side				Liability or credit side			
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
10,200.62	Cash*	663.96	x 9,536.66		Taxes accrued and unpaid		
	Bills receivable				Interest accrued on funded debt		
717.80	Accounts receivable		x 717.80		Interest accrued on unfunded debt		
	Other current assets				Judgments unpaid		
10,918.42	Total Current Assets	663.96	x 10,254.46		Receivers' certificates		
	Materials and supplies on hand			164,790.00	Bills payable	24,970.00	x 139,820.00
				38,482.24	Accounts payable		x 38,482.24
10,918.42	Total Floating Capital	663.96	x 10,254.46		Salaries and wages unpaid		
					Dividends payable		
494,167.08	Fixed Capital (page 5)	437,851.94	x 56,315.14	71,358.37	Other unfunded debt*		x 71,358.37
				274,630.61	Total Unfunded Debt	24,970.00	x 249,660.61
				100,000.00	Funded Debt, page 4	100,000.00	
	Investments						
79,435.14	Sinking funds, invested	92,731.14	13,296.00	374,630.61	Total Debt	124,970.00	
35]							
26,944.11	Sinking funds, uninvested		x 26,944.11	73,058.23	Reserve for Accrued Depreciation	93,442.33	20,384.10
	Special deposits				Sinking fund reserves		
29,277.01	Prepayments	25,513.11	x 3,764.10		Other reserves		
	Suspense*						
	Deferred charges*			300,000.00	Common stock, page 4	300,000.00	
					Preferred stock, page 4		
640,741.76	Totals	556,760.15	x 83,981.61	747,688.84	Totals	518,412.33	x 229,276.51
x106,947.08	Corporate deficit				Corporate surplus	38,347.82	38,347.82
747,688.84	Grand Total, Asset Side	556,760.15	x 83,981.61	747,688.84	Grand Total, Liability Side	556,760.15	x 190,928.69

Red ink figures.

Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

[fol. 336] Capital Stocks and Funded Debt (page 4 of report): Unchanged.

Fixed Capital, December 31, 1927 (Page 5 of Report)

Pier and wharf property Annapolis and Claiborne, Md.	$750.63
Marine Equipment:	
Steamer "Harrington"	165,037.65
Motor Ship "Ritchie"	264,075.55
Steamer "Majestic"	55,298.05
(Amount credited during the year upon the steamer being sold.)	
Miscellaneous equipment on	
Steamer "Harrington"	1,248.45
Motor Ship "Ritchie"	3,059.23
Furniture and Fixtures on "Harrington"	2,942.61
Electric light plant—Claiborne	737.82
Marine equipment on "Majestic"	859.59
Furniture and fixtures on "Majestic"	157.50
(Last two items credited during the year.)	
Total balance at beginning of year	494,167.08
Credited during the year	56,315.14
Balance at close of year	437,851.94

Operating Revenues and Expenses (Page 6 of Report)

Total operating revenues	$277,604.20
Total operating expenses	209,642.49
Profit from operation	30,762.73
The above stated operating expenses include:	
Repairs	42,385.89
Miscellaneous operating expenses	32,024.41
Profit of $30,762.73 was charged to depreciation as follows:	
Steamer "Harrington" 5%	8,251.88
Motor Ship "Ritchie" 8⅓%	22,006.30
Marine Equipment 10%	430.77
Electric Light Plant—Claiborne 10%	73.78
Depreciation aggregating	30,762.73

Income Account and Corporate Surplus or Deficit Account for the Year (Page 7 of Report)

Operating revenues	$277,604.20
Operating expenses	209,642.49
Net operating revenue	67,961.71
Comparison with previous year is shown net operating income of	60,924.79
Corporate Surplus or Deficit Account:	
Debit	107,697.08
Credits	146,044.90
The credit entries include profit on "Majestic"	13,402.31

[fol. 337] (Here follows comparative general balance sheet, side folios 338 and 339)

[fol. 338]

From the 1928 Report

Comparative General Balance Sheet (Page 3 of Report)

	Asset or debit side					Liability or credit side			
Line No.	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Compari preceding (increases decreases
	$ c		$ c	$ c	$ c		$ c	$
1	.....	Cash*	40,859.52	40,859.52	.....	Taxes accrued and unpaid	15,000.00	15,0
2	.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	7,500.00	7,5
3	.....	Accounts receivable	1,976.67	1,976.67	.....	Interest accrued on unfunded debt	.....	.....
4	.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	.....
5	.....	Total Current Assets	42,836.19	42,836.19	.....	Receivers' certificates	.....	.....
6	.....	Materials and supplies on hand	.....	.....	24,970.00	Bills payable	.....	24,9
7	.....	.....	.....	.....	7,005.00	Accounts payable	3,574.61	3,4
8	.....	Total Floating Capital	42,836.19	42,836.19	.....	Salaries and wages unpaid	.....	.....
9	.....	.....	.....	.....	.....	Dividends payable	.....	.....
10	437,851.94	Fixed Capital (page 5)	767,286.89	329,434.95	.....	Other unfunded debt x	.....	.....
11	.....	.....	.....	.....	31,975.00	Total Unfunded Debt	26,074.61	5,0
12								
13	.....	.....	.....	.....	.....	Funded Debt, page 4	250,000.00	250,0
14	.....	Investments	.....	.....	.....	.....	.....	.....
15	.....	Sinking funds, invested	.....	.....	.....	Total debt	250,000.00	250,0
[fol. 339]								
16	.....	Sinking funds, uninvested	.....	.....	92,691.70	Reserve for Accrued Depreciation	114,714.32	22,0
17	.....	Special deposits	16,500.00	16,500.00	.....	Sinking fund reserves	.....	.....
18	.....	Prepayments	.....	.....	.....	Other reserves	.....	.....
19	.....	Suspense x	.....	.....	.....	.....	.....	.....
20	2,009.26	Deferred charges x	9,910.94	7,901.68	315,194.50	Common stock, page 4	315,194.50	.....
21	.....	.....	.....	.....	.....	Preferred stock, page 4	.....	.....
22	439,861.20	Totals	836,534.02	396,672.82	439,861.20	Totals	705,983.43	266,1
23	.....	Corporate deficit	.....	.....	.....	Corporate surplus	130,550.59	130,5
24	439,861.20	Grand Total, Asset Side	836,534.02	396,672.82	439,861.20	Grand Total, Liability Side	836,534.02	396,6

x Does not agree with Depr. item page 6,—$516.46 charge to Reserve for Depr. on sale of Light Plant.

* Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

From the 1928 Report

Comparative General Balance Sheet (Page 3 of Report)

Asset or debit side					Liability or credit side		
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
.....	Cash*	40,859.52	40,859.52	.....	Taxes accrued and unpaid	15,000.00	15,000.00
.....	Bills receivable	.....	.....	.....	Interest accrued on funded debt	7,500.00	7,500.00
.....	Accounts receivable	1,976.67	1,976.67	.....	Interest accrued on unfunded debt	.....	.....
.....	Other current assets	.....	.....	.....	Judgments unpaid	.....	.....
.....	Total Current Assets	42,836.19	42,836.19	.....	Receivers' certificates	.....	.....
.....	Materials and supplies on hand	.....	.....	24,970.00	Bills payable	.....	24,970.00
.....	.....	.....	.....	7,005.00	Accounts payable	3,574.61	3,430.39
.....	Total Floating Capital	42,836.19	42,836.19	.....	Salaries and wages unpaid	.....	.....
.....	.....	.....	.....	.....	Dividends payable	.....	.....
437,851.94	Fixed Capital (page 5)	767,286.89	329,434.95	.....	Other unfunded debt*	.....	.....
.....	.....	.....	.....	31,975.00	Total Unfunded Debt	26,074.61	5,900.39
.....	.....	.....	.....	.....	Funded Debt, page 4	250,000.00	250,000.00
.....	Investments	.....	.....	.....	.....	.....	.....
.....	Sinking funds, invested	.....	.....	.....	Total debt	250,000.00	250,000.00
.....	Sinking funds, uninvested	.....	.....	92,691.70	Reserve for Accrued Depreciation	114,714.32	22,022.62 x
.....	Special deposits	16,500.00	16,500.00	.....	Sinking fund reserves	.....	.....
.....	Prepayments	.....	.....	.....	Other reserves	.....	.....
.....	Suspense*	.....	.....	.....	.....	.....	.....
2,009.26	Deferred charges*	9,910.94	7,901.68	315,194.50	Common stock, page 4	315,194.50	.....
.....	.....	.....	.....	.....	Preferred stock, page 4	.....	.....
439,861.20	Totals	836,534.02	396,672.82	439,861.20	Totals	705,983.43	266,122.23
.....	Corporate deficit	.....	.....	.....	Corporate surplus	130,550.59	130,550.59
439,861.20	Grand Total, Asset Side	836,534.02	396,672.82	439,861.20	Grand Total, Liability Side	836,534.02	396,672.82

Does not agree with Depr. item page 6,—$516.46 charge to Reserve for Depr. on sale of Light Plant.
Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.

[fol. 340] Capital Stocks and Funded Debt (Page 4 of Report)

60,000 shares of no par value.
250,000 first mortgage bonds.

Fixed Capital, December 31, 1928 (Page 5 of Report)

Balance at close of year, $767,286.89.
The above amount includes $318,428.32, cost of motor ship "Dennis" under construction.

Operating Revenues and Expenses (Page 6 of Report)

Total operating revenues	$310,979.92
Operating expenses	140,643.22

The above operating expenses include depreciation of property, 22,539.08.
The depreciation is applied as follows:

Vessels, $429,113.20 at 5%	21,455.66
Marine Equipment, 8,000.92 at 10%	800.09
Essex Car, 850.00 at 33⅓%	283.33
Aggregating as above stated	22,539.08

$22,479.40 for Repairs was also included in operating expenses.

[fol. 341] (Here follows comparative general balance sheet, side folios 342 and 343)

[fol. 342]

From the 1929 Report

Comparative General Balance Sheet (Page 3 of Report)

Line No.	Asset or debit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Liability or credit side: Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
	$ c		$ c	$ c	$ c		$ c	$
1	40,859.52	Cash*	49,453.39	8,593.87	15,000.00	Taxes accrued and unpaid	15,283.58	
2	.....	Bills receivable	.....	.....	7,500.00	Interest accrued on funded debt	6,600.00	
3	1,976.67	Accounts receivable	1,916.67	60.00 D	.....	Interest accrued on unfunded debt	.....	
4	.....	Other current assets	10.40	10.40	.....	Judgments unpaid	.....	
5	42,836.19	Total Current Assets	51,380.46	8,544.27	.....	Receivers' certificates	.....	
6	.....	Materials and supplies on hand	.....	.....	.....	Bills payable	.....	
7	.....	.....	.....	.....	3,574.61	Accounts payable	7,127	
8	42.836.19	Total Floating Capital	.....	.....	.....	Salaries and wages unpaid	.....	
9	.....	.....	.....	.....	.....	Dividends payable	.....	
10	767,286.89	Fixed Capital (page 5)	878,505.08	111,218.19	.....	Other unfunded debt*	.....	
11	.....	.....	.....	.....	26,074.61	Total Unfunded Debt	29,011.24	
12								
13	.....	.....	.....	.....	250,000.00	Funded Debt, page 4	220,000.00	
14	.....	Investments	.....	.....	.....	.....	.....	
15	.....	Sinking funds, invested	.....	.....	250,000.00	Total Debt	220,000.00	
[fol. 343]								
16	.....	Sinking funds, uninvested	.....	.....	114,714.32	Reserve for Accrued Depreciation	148,027.44	
17	16,500.00	Special deposits	19,500.00	3,000.00	.....	Sinking fund reserves	.....	
18	.....	Prepayments	.....	.....	.....	Other reserves	.....	
19	.....	Suspense*	.....	.....	.....	.....	.....	
20	9,910.94	Deferred charges*	6,231.74	3,679.20 D	315,194.50	Common stock, page 4	315,194.50	
21	.....	.....	.....	.....	.....	Preferred stock, page 4	.....	
22	836,534.02	Totals	955,617.28	119,083.26	705,983.43	Totals	712,233.18	
23	.....	Corporate deficit	.....	.....	130,550.59	Corporate surplus	243,384.10	
24	.....	Grand Total, Asset Side	.....	.....	836,534.02	Grand Total, Liability Side	955,617.28	

* Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.
D Deficit.

From the 1929 Report

Comparative General Balance Sheet (Page 3 of Report)

Asset or debit side					Liability or credit side		
Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)	Balance at beginning of year	Item	Balance at close of year	Comparison with preceding year (increases in black, decreases in red)
$ c		$ c	$ c	$ c		$ c	$ c
40,859.52	Cash*	49,453.39	8,593.87	15,000.00	Taxes accrued and unpaid	15,283.58	283.58
.....	Bills receivable	.....	.....	7,500.00	Interest accrued on funded debt	6,600.00	900.00 D
1,976.67	Accounts receivable	1,916.67	60.00 D	.....	Interest accrued on unfunded debt	.....	.....
.....	Other current assets	10.40	10.40	.....	Judgments unpaid	.....	.....
42,836.19	Total Current Assets	51,380.46	8,544.27	.....	Receivers' certificates	.....	.....
.....	Materials and supplies on hand	.....	.....	.....	Bills payable	.....	.....
.....	.....	.....	.....	3,574.61	Accounts payable	7,127.66	3,553.05
42,836.19	Total Floating Capital	.....	.....	.....	Salaries and wages unpaid	.....	.....
.....	.....	.....	.....	.....	Dividends payable	.....	.....
767,286.89	Fixed Capital (page 5)	878,505.08	111,218.19	.....	Other unfunded debt*	.....	.....
.....	.....	.....	.....	26,074.61	Total Unfunded Debt	29,011.24	2,936.63
.....	.....	.....	.....	250,000.00	Funded Debt, page 4	220,000.00	30,000.00 D
.....	Investments	.....	.....	.....	.....	.....	.....
.....	Sinking funds, invested	.....	.....	250,000.00	Total Debt	220,000.00	30,000.00 D
.....	Sinking funds, uninvested	.....	.....	114,714.32	Reserve for Accrued Depreciation	148,027.44	33,313.12
16,500.00	Special deposits	19,500.00	3,000.00	.....	Sinking fund reserves	.....	.....
.....	Prepayments	.....	.....	.....	Other reserves	.....	.....
.....	Suspense*	.....	.....	.....	.....	.....	.....
9,910.94	Deferred charges*	6,231.74	3,679.20 D	315,194.50	Common stock, page 4	315,194.50	.....
.....	.....	.....	.....	.....	Preferred stock, page 4	.....	.....
836,534.02	Totals	955,617.28	119,083.26	705,983.43	Totals	712,233.18	6,249.75
.....	Corporate deficit	.....	.....	130,550.59	Corporate surplus	243,384.10	112,833.51
.....	Grand Total, Asset Side	.....	.....	836,534.02	Grand Total, Liability Side	955,617.28	119,083.26

*Include in this item "Cash" not only money, but also bank credit subject to demand, checks and sight drafts.
*Deficit.

[fol. 344] Capital Stock and Funded Debt (Page 4 of Report)

Capital stock: No change.

Funded debt: First mortgage bonds outstanding $213,000 ($37,500 of former outstanding bond issue of $250,000 paid off and retired).

Fixed Capital, December 31, 1928 (Page 5 of Report)

Balance at close of year	$878,505.08
Pier and Wharf Property, Annapolis Ticket Office	750.63
Real Estate:	
Kent Island Farm No. 1	10,640.70
Kent Island Farm No. 2	21,500.00
Kent Island Terminal, Land and Engineering	18,235.32
Marine Equipment:	
Steamer "Harrington"	165,037.65
Steamer "Ritchie"	265,535.55
Steamer "Dennis"	383,756.56
which, together with other property, aggregates	878,505.08

Operating Expenses and Revenues (Page 6 of Report)

Total operating revenues	359,509.18
Operating expenses	174,518.60

Operating expenses include $33,313.12 for depreciation of property; also Repairs, $38,368.50.

Important Changes During the Year (Page 8 of Report)

Shows that new vessel "Dennis" under construction at end of preceding year, had been completed and put into service June 15, 1929.

Lands had been acquired on Kent Island.

$30,000 of first mortgage bonds had been redeemed January 1, 1929.

[fols. 345 & 346] Finance Docket No. 8013

Exhibit No. 13

Finance Docket No. 8013

Transcript, pp. 160, 162

Vessels Used in Annapolis-Claiborne Ferry Service

"Emerson C. Harrington"	1919-
"General Lincoln"	1921-1923
"Majestic"	1923-1926
"Albert C. Ritchie"	1926-
"John M. Dennis"	1929-

The "Ritchie" and "Dennis" are now used on regular schedules with the "Harrington" in reserve. The period covered includes operations by the present company, the Claiborne-Annapolis Ferry Company, and its predecessor, the Claiborne-Annapolis Ferry, Inc. The "General Lincoln" was disposed of on June 11, 1924, and the "Majestic", August 12, 1927. The "Albert C. Ritchie" went into service on July 17, 1926, and the "John M. Dennis", on June 15, 1929.

[fol. 347] [File endorsement omitted.]

Endorsed on cover: File No. 36,268. District of Columbia Supreme Court. Term No. 454. Claiborne-Annapolis Ferry Company, appellant, vs. The United States of America, Chesapeake Beach Railway Company and Interstate Commerce Commission. Filed October 12, 1931. File No. 36,268.